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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO.514 OF 2024

1. Sau. Shilpa w/o Nilesh Pendharkar,
Aged about 39 Years,
Occupation :Housewife,
R/o Borgadi Naka, Papinwar Layout,
Pusad, Taluka Pusad,
District Yavatmal.
2. Suresh Dadarao Haral,
Aged about 43 Years,
Occupation: Agriculturist,
3. Sau. Varsha Suresh Haral,
Aged about 34 Years,
Occupation: Housewife,
Both R/o Gaul Khu,
Taluka Pusad, District Yavatmal.

..... APPELLANTS

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Vasant Nagar,
Pusad, Taluka Pusad,
District Yavatmal.
2. XYZ,
Aged about 39 Years,
Occupation: Service,

.... RESPONDENTS

Ms. Shreya Bhagat, Counsel h/f Mr. P. R. Agrawal, Counsel for
the appellants.
Ms. Kavita Bhongde, APP for respondent No.1/State.
Mr. Anirudh Ananthakrishnan, appointed Counsel for
respondent No.2.

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CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24.10.2024

ORAL JUDGMENT :

1. **Admit.**

2. Heard finally with the consent of learned Counsel appearing for the parties.

3. By preferring this appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989'), the appellants have challenged the order passed by the learned Special Judge and Additional Sessions Judge, Pusad, District Yavatmal by which the application of the present appellants for grant of anticipatory bail in Criminal Bail Application No.243/2024 is rejected.

4. The appellants are apprehending arrest at the hands of police as crime is registered on the basis of the report lodged by Sau. Varsha Devanand Burkule alleging that the co-accused has forwarded obscene photographs on her mobile phone and outraged her modesty. It is further alleged that she belongs to the Scheduled Tribe i.e. "Andh Adivasi" and staying with her husband and one daughter. She was abused by the co-accused and the appellant No.1 on her caste and in a filthy language and thus she is

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humiliated on the public place within the public view. On the basis of the said report police have registered the crime against the present appellants.

5. Learned Counsel for the appellants submitted that as far as the allegation against the appellant Nos.2 and 3 are concerned, only their names are mentioned and there is no specific allegation against them as to the abuses on the caste. He submitted that only to give a counterblast to a complaint filed by the co-accused Savita, this false FIR is lodged. As far as the bar under Section 18 or 18-A of the Act of 1989 is concerned, which is not attracted, as there are no allegations as to the abuses on the caste. In view of that the appeal be allowed and the appellants be released on bail in the event of their arrest.

6. Learned APP and learned Counsel for the respondent No.2 strongly opposed the said prayer on the ground that in view of the bar under Section 18 or 18-A of the Act of 1989, the appeal is devoid of merits and liable to be dismissed.

7. After hearing the learned Counsel for the parties and perused the recitals of the FIR as well as the investigation papers which are filed on record, from which it reveals that there is absolutely no allegation that either they have abused the informant on the caste and as far as the appellant No.1 is concerned, the general allegation is made and which is only to the extent of

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reference of the caste. Moreover, there is representation by the villagers that no such incident has taken place. Considering the same, at this stage, the allegations are not sufficient to attract the provisions of the Atrocities Act and therefore, the prayer for grant of anticipatory bail deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 06.09.2024 passed by the learned Special Judge and Additional Sessions Judge, Pusad, District Yavatmal in Criminal Bail Application No.243/2024 is quashed and set aside.
- (iii) In the event of arrest, in connection with Crime No.337/2024 registered with Police Station, Vasant Nagar, Pusad, District Yavatmal, for the offences punishable under Sections 141, 143, 354-D, 384, 323, 294 and 506 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(1)(w)(i) and 3(1)(w)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant **No.(1) Sau. Shilpa w/o Nilesh Pendharkar, No.(2) Suresh Dadarao Haral and No.(3) Sau. Varsha Suresh Haral** shall be released on anticipatory bail on executing PR Bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.
- (iv) The appellants shall attend the concerned Police Station as and when required for the investigation purpose.
- (v) The appellants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

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8. The fees of the appointed Counsel be quantified as per rules.

9. Appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.