



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPEAL NO.372 OF 2024

(Ravindra Govinda Musale and ors. Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.R. Vyas, Advocate for the appellants.
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JULY 18, 2024.

By preferring this appeal, the appellants have challenged the order dated 09/07/2024 passed by the Additional Session Judge/Special Judge, Chandrapur in Misc. Criminal Application No.439 of 2024 by which the application for anticipatory bail of the appellants was rejected.

2. The appellants are apprehending the arrest at the hands of police in connection with Crime No.136/2024 registered at police station Virur, District Chandrapur for the offence punishable under Section 143 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

3. The accusation against the present appellants is on the basis of report lodged by Pandit Bhaurao Devgade alleging that he belongs to the scheduled caste and residing at village Murti, Taluka Rajura, District

Chandrapur, in the village there was a construction of Hanuman Temple. On 22/03/2024 at about 9.00 a.m. he was returning from agricultural field towards his house, at that time, all the appellants were found digging the place near the said temple and also constructing the fencing at that place, therefore, he restrained them, on that they have abused him on his caste. On the basis of said report, police have registered the crime against the present appellants. He submitted that omnibus statement is made by the informant. There is no specific allegation against any one of them. Considering the nature of the allegation, mere reference of the caste is there, therefore, no offence is made out under the provisions of the Atrocities Act. He submitted that in view of the general statement made by the informant, bar under Section 18A of the Atrocities Act is not attracted and custodial interrogation of the present appellants is not required. In view of that, they be protected by granting ad-interim anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that all the appellants have abused him on his caste and therefore, bar under Section 18A is attracted. In view of that, prayer for grant of ad-interim protection deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR. There is no dispute as to the fact that FIR is lodged after one and half months of the incident. The alleged incident has taken place on 22/03/2024 whereas the FIR is lodged on 08/05/2024.

The omnibus statement is made against all the appellants, there is no specific allegation against any of them and that statement is only to the extent of reference of the caste. It is now well settled that when *prima facie* case is made out then anticipatory bail can be entertained. Whether there is a *prima facie* case or not is to be ascertained from the investigation papers. At this stage, considering the omnibus statement against all the appellants, the application deserves to be allowed. Moreover, mere reference of the caste is not sufficient to attract the provisions of the Atrocities Act. Accordingly, I proceed to pass the following order:

- (i) Issue notice to the respondents, returnable after two weeks.
- (ii) Learned APP waives notice for the State.
- (iii) The Police Station Officer, Police Station Virur, District Chandrapur shall intimate respondent No.2.
- (iv) In the event of arrest, the appellants –
1) Ravindra Govinda Musale, 2) Surendra Vishwanath Salve, 3) Dyaneshwar Namdev Dakhre, 4) Kisan Govinda Musale, 5) Srihari Abaji Dakhre, 6) Maheshwar Srihari Dakhre, 7) Ganesh Dadaji Salve, 8) Rajendra Kisan Salve, 9) Ashish Bandu Janekar, 10) Ajay Shamrao Dakhre and 11) Vinod Bhauji More

in connection with Crime No.136/2024 registered at police station Virur, District Chandrapur for the offence punishable under Section 143 of the Indian Penal Code and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, be released on ad-interim anticipatory bail on executing a P.R.Bond in the sum of Rs.25,000/- each with one solvent surety each, in the like amount.

(v) The appellants shall attend the office of Sub-Divisional Police Officer, Gadchandur as and when required for the investigation purpose and shall cooperate with the investigating agency.

(vi) The appellants shall furnish their Cell phone number and address with address proof before the Investigating Officer.

(vii) The appellants shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(URMILA JOSHI-PHALKE, J.)