



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

CRIMINAL APPEAL NO.372 OF 2024

1. Ravindra Govinda Musale,
Age 53 years,
Profession Agriculture
 2. Surendra Vishwanath Salve,
Age 45 years, Occupation – Agriculture,
 3. Dyaneshwar Namdev Dakhre
Age 46 years, Occupation – Agriculture,
 4. Kisan Govinda Musale,
Age 59 years, Occupation – Agriculture,
 5. Srihari Abaji Dakhre,
Age 53 years, Occupation – Agriculture,
 6. Maheshwar Srihari Dakhre,
Age 35 years, Occupation – Agriculture,
 7. Ganesh Dadaji Salve,
Age 35 years, Occupation – Agriculture,
 8. Rajendra Kisan Salve,
Age 40 years, Occupation – Agriculture,
 9. Ashish Bandu Janekar,
Age 29 years, Occupation – Agriculture,
 10. Ajay Shamrao Dakhre,
Age 34 years, Occupation – Agriculture,
 11. Vinod Bhauji More,
Age 42 years, Occupation – Agriculture,
- All Resident of Murti, Taluka Rajura,
District Chandrapur

...APPELLANTS

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Virur,
District Chandrapur
2. Pandit Bhaurao Devgade
Aged about 40 years,
R/o Murthy, Taluka Rajura,
District Chandrapur

...RESPONDENTS

Mr. R.R. Vyas, Advocate for the appellants.
Ms Shamsi Haider, APP for the State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : OCTOBER 14, 2024.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel for the parties.

2. By preferring this appeal, the appellants have challenged the order dated 09/07/2024 passed by the Additional Sessions Judge/Special Judge, Chandrapur in Anticipatory Bail Application No.439/2024 by which the anticipatory bail application of the present appellants was rejected.

3. 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').

4. 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. After registration of the crime, the appellants approached to the Special Court for grant of bail but the same was rejected. 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, there is only reference of the caste under the provisions of the Atrocities Act. He submitted that in view of the general statement made by the informant, bar under Section 18 of the Atrocities Act is not attracted and custodial interrogation of the

present appellants is not required. In view of that, the interim protection granted to the appellants deserves to be confirmed.

5. Learned APP strongly opposed the said appeal on the ground that all the appellants have abused him on his caste and therefore, there is a *prima facie* case and bar under Section 18 is attracted. In view of that, the order passed by the learned Special Court is correct and not interference is called for.

6. After service of the notice, none appears for respondent No.2.

7. I have heard learned Counsel for both the parties. Perused the recitals of the FIR from which it reveals that the FIR is lodged after one and half months of the incident and there is no explanation put forth for the said delayed FIR. The alleged incident has taken place on 22/03/2024 whereas the FIR is lodged on 08/05/2024. The nature of the allegation is that 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. The nature of the allegation is that the appellants have abused him on his caste. It is now well settled that when *prima facie* case is not 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 appeal 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) The appeal is allowed.
- (ii) The order passed by the Additional Sessions Judge/Special Judge, Chandrapur in Anticipatory Bail Application No.439/2024 dated 09/07/2024 is hereby quashed and set aside.
- (iii) 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 anticipatory bail on

executing a PR.Bond in the sum of Rs.25,000/- each with one solvent surety each, in the like amount.

(iv) 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.

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

(vi) 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.

8. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*