



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

CRIMINAL APPEAL NO. 584 OF 2024

Mohammad Nawaz Malik Mohammad Iqbaal Sufi 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. A.R. Deshpande, counsel for appellant.

Ms. T.H. Udeshi, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/10/2024.

1. Present appeal is filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. By preferring this appeal, the appellant has challenged the order passed by the learned Additional Sessions Judge, Akot, by which the application of the present appellant for grant of anticipatory bail is rejected.

2. Heard learned counsel for the appellant, who submitted that the appellant is a medical practitioner, and as there was a dispute as to the payment of the fees, this false FIR is lodged against him. The recitals of the FIR show that on 16/09/2024, the victim, along with her brother, had been to the clinic of the present appellant, wherein the present appellant allegedly outraged her modesty by touching her chest. On the basis of said report, police have registered the crime against the present appellant.

3. He submitted that, as far as the allegations are concerned, which are baseless. The CCTV cameras were already installed in the said clinic, and merely because there was a dispute as to the payment of fees, this false FIR is lodged against him. He submitted that there is no statement that the victim belongs to the Scheduled Caste, and this fact was within the knowledge of the present appellant, and knowingly, he has only had the intention to humiliate her, insult her, and outraged her modesty. Thus, the prima facie case is not made out, as far as the bar under Section 18-A is concerned, in view of that, he be protected by granting ad-interim protection.

4. Learned APP strongly opposed the said application and submitted that, considering the recitals of the FIR, wherein she has specifically alleged that the present appellant outraged her modesty by touching her chest, and therefore, the bar under Section 18-A is attracted. In view of that, prayer for ad-interim protection deserves to be rejected.

5. After hearing learned counsel for the appellant and learned APP for the State, perused the recitals of the FIR, from which it reveals that appellant has a medical practitioner and present victim had been to the clinic for the treatment of her brother. It was alleged that, at the relevant time, the present appellant has outraged her modesty by touching her chest. It further reveals from recitals of the FIR that, there was a dispute on account of payment of the fees.

Thus, there is some substance in the contention of the learned counsel for the appellant, that due to the dispute on account of the payment of fees, he falsely implicated. Whether there is a false implication or not is a matter of investigation. At this stage, whether a bar under Section 18-A is attracted or not is to be seen. Admittedly, there is no statement to the effect that the appellant knew that she belonged to the Scheduled Caste. Thus, in the absence of the said statement, there are no reasons for the appellant to have knowledge that she belongs to the Scheduled Caste. Thus, considering recitals of the FIR, at this stage, bar under Section 18-A is not attracted, and the appellant has made out a case for grant of ad-interim protection. Accordingly, I proceed to pass the following order;

- a] In the event of arrest, appellant – Mohammad Nawaz Malik Mohammad Iqbaal Sufi shall be released on ad-interim anticipatory bail, in connection with crime No. 364/2024 for the offences punishable under Sections 74 and 75(1) of the Bhartiya Nyaya Sanhita, 2023; 8 and 10 of the Prevention of Children from Sexual Offences Act, 2012; and 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR.Bond of Rs. 25,000/- with one solvent surety in the like amount.

- b] The appellant shall attend the concerned police station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- c] The appellant shall allow the investigating officer to collect the CCTV footage from his clinic.
- d] The appellant shall produce his mobile phone before the investigating officer and this period shall be considered as his custody for the purpose of section 23(2) the Bharatiya Sakshya Adhiniyam, 2023.
- e] Issue notice to the respondents.
- f] Learned Additional Public Prosecutor waives service of notice on behalf of respondent/State and seeks time to file reply.
- g] Stand over after **Diwali Vacation.**

[URMILA JOSHI-PHALKE, J.]