



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

CRIMINAL APPEAL NO.715 OF 2024

(Devendra s/o Rameshchandra Raut and ors. Vs. State of Maharashtra and ors.)

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

Court's or Judge's Order

Mr. S.A. Thakkar, Advocate for the appellants.
Ms S. Haider, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 12, 2024

Heard.

2. By preferring this appeal, the appellants have challenged the order passed by the Special Judge and Additional Sessions Judge, Khamgaon by which the application of the appellants for grant of anticipatory bail is rejected.

3. Learned Counsel for the appellants submitted that the appellants are apprehending arrest at the hands of police in connection with Crime No.520/2024 registered with police station Buldhana, District Jalgaon (Jamod) for the offence punishable under Sections 74, 75, 76, 191(1), 191(2), 190, 115(2), 333 and 352 of the Bharatiya Nyaya Sanhita, 2023 and Sections 8, 12, 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va), 3(1)(r), 3(1)(s) and 3(1)(3) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred as 'the Act of 1989' for short).

4. On account of the FIR lodged by the victim on an allegation that on 21/08/2024 when she along with her family members present in the house at about 9:30 AM, 7 - 8 persons entered in her house and started assaulting her husband by fist and kick blows. Out of that, one person has pulled her saree and one person has caught hold her daughter. On hearing the shouts, her other relatives came there, at the relevant time, the assailants ran away from the spot of incident. It is further informed to her that on 20/08/2024, there was a dispute on account of consuming the liquor, and therefore, they came to her house. He submitted that the applicant initially lodged the report vide Crime No.428/2024 and to give counter blast to the said FIR this false FIR is lodged against the present appellants. He submitted that even assuming the allegation as it is, there is omnibus allegations as far as the abuses on the caste is concerned. He submitted that moreover the entire incident occurred inside the house, and therefore, it is not within the public view. Therefore, the application of the Act of 1989 itself is doubtful. In view of that, the appellants be released on ad-interim anticipatory bail.

5. Learned APP strongly opposed the appeal on the ground that considering that the present appellants entered in the house of the victim and not only assaulted her husband but also sexually harassed her as well as her daughter, and therefore, their custodial interrogation is required.

6. I have heard learned Counsel for both the sides. Perused the recitals of the FIR and the other documents it reveals that regarding the incident on earlier date i.e. on 20/08/2024, one of the appellant namely – Devendra Rameshchandra Raut has lodged the report against the husband of the informant and other persons and thereafter this FIR came to be lodged. Considering the submissions made by the learned Counsel for the appellants that the entire incident took place inside the house, thus, the incident is not within the public view. Moreover, there is an omnibus allegations, and therefore, no *prima facie* case is made out. Considering the fact that there is omnibus allegation and if the *prima facie* case is not made out, the bar under Section 18A of the Act of 1989 is not attracted. In view of that, the appellants have made out a case for grant of ad-interim anticipatory bail. Accordingly, I proceed to pass the following order:

- (i) Issue notice to the respondents, returnable after Christmas Vacation, 2024.
- (ii) Learned APP waives notice for the State and seeks time to file reply.
- (iii) In the event of the arrest, the appellants – 1) Devendra s/o Rameshchandra Raut, 2) Shyam s/o Vijay Deotalu, 3) Prafulla s/o Shyam Deotalu, 4) Punjaji Amarsing Mehenge, 5) Sanjay Punjaji Mehenge, 6) Rajesh s/o Prabhakar Tiwari and 7) Ritesh

s/o Prabhakar Tiwari in connection with Crime No.520/2024 registered with police station Buldhana, District Jalgaon (Jamod) for the offence punishable under Sections 74, 75, 76, 191(1), 191(2), 190, 115(2), 333 and 352 of the Bharatiya Nyaya Sanhita, 2023 and Sections 8, 12, 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va), 3(1)(r), 3(1)(s) and 3(1)(3) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, be released on ad-interim anticipatory bail on executing PR. bond of Rs.25,000/- each with one solvent surety each in the like amount.

(iv) The appellants shall attend the concerned police station once in a week i.e. on every Monday between 10.00 AM and 1.00 PM and shall cooperate with the investigating agency.

(v) The appellants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case, either personally or by way of electronic media.

(vi) The appellants shall not indulge themselves in a similar type of the activities.

(URMILA JOSHI-PHALKE, J.)