



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

78 CRIMINAL WRIT PETITION NO.358 OF 2024

JYOTI W/O DEEPAK KATKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. S.R. Kedar, Advocate for petitioner - **absent**

Mrs. Priya R. Bharaswadkar, APP for respondent Nos.1 to 3

...

CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 15th SEPTEMBER, 2025

ORDER :

. Present petition has been filed directing respondent No.2 to arrest accused persons by name Vinayak Shyamrao Kale and Ankush Asaram Lokhande in connection with First Information Report vide Crime No.280/2019 dated 06.08.2019 registered with City Chowk Police Station, Chhatrapati Sambhajnagar as provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are invoked and directing to decide the complaint of petitioner dated 01.02.2024.

2 Learned Advocate for petitioner is absent.

3 Learned APP places on record the investigation papers and submits that in respect of Crime No.280/2019 initially 'B' Summary was filed before the concerned Magistrate and at that time provisions under the Atrocities Act were not invoked. The learned Magistrate had issued notice to informant and appears that protest petition vide Miscellaneous Application No.227/2020 was filed. The concerned Magistrate set aside the 'B' Summary and gave directions for further investigation by adding the provisions under the Atrocities Act. Accordingly, the offences were added and investigation was carried out. It is stated that charge sheet has been filed before learned Special Judge, under the Atrocities Act, Aurangabad on 15.03.2022 bearing Special Case No.124/2024. Now, from the online status it appears that against two accused persons non bailable warrant has been issued.

4 Important point to be noted is that even after the matter had progressed before the trial Court and there was filing of charge sheet before Special Court, there is no amendment to the petition. The prayer in respect of arrest is concerned, it cannot be entertained under Article 226 of the Constitution of India. Whether to arrest a person or not would be within the prerogative of Investigating Officer and it appears that in the present case, in view of the fact that the offences are under the Indian Penal Code as well as under Atrocities Act, it has been considered by Investigating Officer that

those offences are punishable with less than seven years punishment and, therefore, under Section 41-A of the Code of Criminal Procedure he has issued notice. Therefore, now, there is no necessity to take cognizance of any of the averments. Petition stands dismissed.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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