



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

935 CRIMINAL APPEAL NO. 696 OF 2024

KAILAS S/O MAHADEO AVAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Angad Lala Kanade, Advocate for the Appellant
Ms. Chaitali Chaudhri-Kutti, APP for the Respondent No.1-State
Mr. D. S. Kale, Advocate for Respondent No.2

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 28.01.2025

PER COURT :-

1. Heard both the sides at length and perused the record.
2. By the present Appeal under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989, the Appellant / Original informant takes exception to the order dated 23.04.2024 passed by the learned Additional Sessions Judge, Majalgaon, District Beed in Criminal Bail Application No. 142 of 2024, thereby released the Respondent No.2 / accused on bail in Crime No.39 of 2024 for the offenses punishable under Section 143, 149, 323, 504, 506 of the Indian Penal Code and Section 3(1)(r), 3(2)(s), 3(2)(va) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989.

3. On perusal of F.I.R. it appears that, on 16.03.2024 at about 11.30 a.m., Respondent No.2 accused with other four persons, namely, (1) Rajesh Trimbak Thete, (2) Bharat Prabhakar Thete, (3) Jalidar Ashruba Thote and (4) Mahadev Ashruba Thete visited to clean the garbage nearby the informant's house in view of Application dated 26.12.2023. Therefore, he was called at the spot of incident. Thereafter, the Respondent No.2 Rameshwar Trimbak Thete allegedly abused him based on his caste. Other accused assaulted him with fist and blows and issued life threat. On the basis of said report a Crime No.39 of 2024 registered against the Respondent No.2 and others for the offenses punishable under Section 143, 149, 323, 504, 506 of the Indian Penal Code and Section 3(1)(r), 3(2)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989.

4. Needless to say that, during the pendency of present Appeal, the Investigating Officer conducted investigation and filed a charge-sheet against the present Respondent No.2 and other co-accused. The trial of said crime is pending.

5. The learned counsel for the Appellant / Informant canvassed that, the accused issued life threats to the Appellant / Informant after he was released on bail, however, while granting anticipatory bail, the parameters laid down in Section 14(2) of the Act have not been considered by the learned Special Court, therefore, prayed to quash and set aside order of grant of anticipatory bail and for taking the accused in custody for interrogation.

6. The learned counsel for Respondent No.2 orally submits that, the other co-accused abused and assaulted the Appellant / Complainant but only allegations as against the present Respondent No.2 in respect of abusing the Informant on his caste though the Respondent No. 2 never abused the appellant on his cast. The Investigating Officer already conducted investigation and filed charge-sheet, therefore, interrogation of the Respondent No. 2 / accused is not required for recovery of any weapon or any other article. Therefore, considering the nature of offence, the learned Special Court released the present Respondent / Accused on anticipatory bail which is not required to interfere, hence, prayed for dismissal of the Appeal.

7. It is not in dispute that, on 16.03.2024 a Crime No.39 of 2024 registered with Dindrud Police Station, against the present Appellant and other accused for the offences punishable under Section 143, 149, 323, 504, 506 of the Indian Penal Code and Section 3(1)(r), 3(2)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989. The Appellant and the Respondent jointly submitted that after conclusion of investigation, the charge-sheet already filed as against the present Respondent No. 2 / accused and other Accused. It is also not in dispute that the Investigating Officer recorded statement of witnesses and drawn spot panchanama and filed charge sheet.

8. As per the allegations made in the Report, no weapon appears to be used by present Respondent No.2 / accused or other co-accused. However, only allegations as against the Respondent No.2 about abusing the appellant on his caste and issuance of life threats. Therefore, custody of the present Respondent No.2, accused is not required and no recovery is to be effected at the instance of Respondent No.2. So also, considering the nature of offense under Section 18 and 18(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), does not create a bar as per the ratio

laid down in case of ***Prathvi Raj Chauhan Vs. Union of India and Others, AIR 2020 Supreme Court 1036***, wherein it is held that ;

(i) It was important to keep oneself reminded that while sometimes (perhaps mostly in urban areas) false accusations were made, those were not necessarily reflective of the prevailing and wide spread social prejudices against members of these oppressed classes. Significantly, the amendment of 2016, in the expanded definition of atrocity, also lists pernicious practices including forcing the eating of inedible matter, dumping of excreta near the homes or in the neighbourhood of members of such communities and several other forms of humiliation, which members of such scheduled caste communities are subjected to. All these considerations far outweigh the Petitioners' concern that innocent individuals would be subjected to what are described as arbitrary processes of investigation and legal proceedings, without adequate safeguards. The right to a trial with all attendant safeguards are available to those Accused of committing offences under the Act, they remain unchanged by the enactment of the amendment.

(ii) While considering any application seeking pre-arrest bail, the High Court had to balance the two interests: i.e. that the power was not so used as to convert the jurisdiction into that under Section 438 of the Code of Criminal Procedure, but that it was used sparingly and such orders made in very exceptional cases where no prima facie offence was made out as shown in the FIR, and further also that if such orders were not made in those classes of cases, the result would inevitably be a miscarriage of justice or abuse of process of law.

9. In view of above, I do not find that the Appellant has made out substantial grounds to interfere with the order of granting of anticipatory bail in favour of the Respondent No.2 accused. Accordingly the Criminal Appeal is dismissed.

[Y. G. KHOBRADE, J.]

HRJadhav