



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 909 OF 2024

Babasaheb S/o Bhagaji Aware
VERSUS
The State Of Maharashtra And Another

Mr. S. G. Kawade, Advocate for appellant
Mr. D. B. Bhange, APP for respondent No.1/State
Mr. R. K. Jadhawar, Advocate for respondent No. 2

CORAM : R. M. JOSHI, J.
DATE : 31st January, 2025

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 0395/2024 registered at Bidkin Police Station, Dist. Aurangabad for the offence punishable Under Sections 76, 118(1), 115(2), 352, 351(2), 351(3), read with 3(5) of Bhartiya Nyaya Sanhita, 2023 & under Section 3(1)(w)(i) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First Information Report indicates that on 08.09.2024 at about 2:00 to 2:00 PM lineman came to her house for installation of meter however as he was not permitted to install the meter, he left the place. It is alleged that thereafter accused persons came inside the house of the informant. There is allegation against appellant herein about he outraging the modesty of the informant and also assaulted her

with knife on her head.

3. Learned counsel for the appellant submits that in fact the First Information Report is false, on the face of it in view the statement of independent witness Vaibhav Sakhare, technician, who has stated that at the time of installation of the meter, husband of informant was present. He refers the said incident of installation of meter having occurred at around 1:00 AM or thereafter. It is his submission that in fact, appellant herein had sustained injuries and was also required admission in hospital.

4. Learned APP and learned counsel for the informant opposed the appeal by contending that there is specific allegation of use of knife though now seized and the Injury Certificate of the informant indicate so. Appeal is also opposed on the ground of embargo created by Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short "the Act") for granting anticipatory bail.

5. There cannot be any dispute about the fact that where ever offence is even prima facie made out under the Act, bar of Section 18 would apply to accused. However, here in this case, there is no allegation against the appellant and co-accused of any abuse or insult over the caste of informant. Similarly, there is no allegation that only for the

reason that she belongs to Scheduled Caste Committee, offence in question is committed. First Information Report indicates that there are dispute between parties. Statement of independent witness in no uncertain terms shows that at the time of incident of attempt to installation of meter, husband of informant was present. This Court, therefore, finds no reason to disagree with submission that this could be a false case or case of over implication.

6. Hence, appeal stands allowed in terms of interim relief.

(R. M. JOSHI, J.)

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