



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL APPEAL NO. 951 OF 2024

KIRAN PRAKASH RAJPUT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for the Appellant : Mr. Chandrakant Vinayak Bodkhe
APP for Respondents/State : Mr. S.M. Ganachari
Advocate for the Respondent No.2 : Mr. S.N. Dudhate
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CORAM : Y.G. KHOBRAGADE, J.
DATE : 27.02.2025

PC.:-

1. Heard the learned counsel for the respective parties at length.
2. By the present appeal under Section 14-A of the Scheduled caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short the SC-ST Act), the Appellant prayed to quash and set aside the order dated 16.10.2024 passed by the learned Special Judge in Criminal Bail Application No.2008/2024 and prayed for anticipatory bail in Crime No.0421/2024 registered with Satara Police Station, Aurangabad on 29.09.2024 for the offence punishable under Sections 115(2), 352, 351(2), 351(3) of the Bharatiya Nyay Sanhita, 2023, and Sections 3(1)(r) and 3(1)(s) of the SC-ST Act.

3. On the face of the record, it appears that Respondent no. 2/Informant lodged FIR No.421/2024 with Satara Police Station alleging that he is a member of the Scheduled caste community. On 22.09.2024 at about 10.15 hours, when he was raising compound wall at that time the present Appellant/accused Kiran Rajput visited there and restrained him from constructing the wall and abused him based on his caste. On the basis of said FIR, Crime No.0421/2024 registered with Satara Police Station against the present Appellant/accused for the offence punishable under Section 115(2), 351(2), 351(3), 352 of BNS 2023 and under Section 3(1)(r), 3(1)(s) of the SC-ST Act.

4. On 22.09.2024, the present Appellant also lodged a report with Satara Police Station alleging that, on 22.09.2024 at about 10.30 am., the accused (1) Kiran Dada, (2) Ajay Dabhade, (3) Sachin and (4) Vinod Paikrao along with 20-25 labourers started digging in his agricultural field with JCB and were raising construction of wall, therefore, he visited there and snapped photographs through his mobile. At that time the accused (1) Kiran, (2) Ajay (informant) in FIR No.421/2024 (3) Sachin and 4) Vinod Paikrao restrained him from entering his field and assaulted with a wooden log. Therefore, Crime No.0420/2024 registered with Satara Police Station at approximately 20.23 hours on 22.09.2024 for the offence punishable under Section 352,

351(3), 351(2), 3(5) and 118(1) of the BNS.

5. In *Prakash Gopalrao Pohare Vs. State of Maharashtra and another, 2008 ALL M.R.(Cri.) 180 : 2008 (1) Mh.L.J. 139*, wherein it is held that, the F.I.R. should disclose not only caste of complainant but also the caste of accused.

6. In the case of *Hitesh Verma Vs. State of Uttarakhand and Another, (2020) 10 SCC 710*, the Hon'ble Supreme Court held that, insults or intimidation to a person will not be offence under the 1989 Act, unless such insult or intimidation is only on account of victim belonging to SC/ST. Therefore, it is necessary to make out a case that when a member of a vulnerable section of society is subjected to indignities, humiliations and harassment because of belonging to that section, such abuse must occur in public view and observed in paragraph 15, as under:-

“15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered “in any place within public view” is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh, it cannot be said to be a place within public view as none was said to be present within the

four walls of the building as per the FIR and/or charge-sheet.”

7. In recent Judgment delivered on 31.01.2025, by the Hon’ble Supreme Court in Special Leave Petition (Criminal) No.8778 – 8779 of 2024, (***Karuppudayar Vs. State Rep. By the Deputy Superintendent of Police, Lalgudi Trichy & Ors.***), in paragraph 11, it is held thus:-

“11. It could thus be seen that, to be a place ‘within public view’, the place should be open where the members of the public can witness or hear the utterance made by the accused to the victim. If the alleged offence takes place within the four corners of the wall where members of the public are not present, then it cannot be said that it has taken place at a place within public view.”

8. In the present case, it appears that, the alleged abuse based on caste occurred in an open space but not in public view. The FIR does not indicate that the Appellant/accused abused the informant in public view. The Informant/Respondent No.2 has not stated in the report that he is a member of the SC-ST community. The contents of the FIR do not show that, the informant was abused in his caste in public view by the Appellant/accused. Therefore, in my opinion, the bar under Section 18 of the SC-ST Act is not applicable. Further, it appears about existence of civil dispute, which is going on between the Informant/Respondent No.2 and the Appellant. Additionally, a counter FIR has been lodged by the Appellant/Accused against Respondent No.2/informant. There is no necessity to interrogate the Appellant/accused,

and no recovery is required from him. On 22.10.2024, this Court passed an order and granted ad-interim anticipatory bail to the Appellant in Crime No.421/2024 registered with Satara Police Station. Under these circumstances, it would be just and proper to extend the order dated 22.10.2024 during the pendency of the trial. In view of above discussion, I am inclined to grant present appeal and proceed to pass the following order:

ORDER

1. The Cri. Appeal No. 951 of 2024 is hereby allowed.
2. The impugned order dated 16.10.2024, passed by the learned Special Judge (SC-ST) in Criminal Bail Application No. 2008/2024, is hereby quashed and set aside.
3. The order passed by this Court on 22.10.2024, whereby the Appellant is enlarged on anticipatory bail shall continue during pendency of the trial of Crime No. 0421 of 2024 registered with Satara Police Station on 22.09.2024.
4. Accordingly, the appeal is disposed off.

[Y.G. KHOBRADE, J.]