



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 969 OF 2024

Faisaloddin Anisoddin Kazi

VERSUS

The State Of Maharashtra And Another

- Mr. V. A. Bagadiya, Advocate for the Appellant
- Mr. B. A. Shinde, APP for the Respondent/State
- Ms. Vidya Kothule, Advocate for the Respondent No. 2 (appointed)

CORAM : R. M. JOSHI, J
DATE : JANUARY 29, 2025

PER COURT :

1. Appellant apprehends arrest in connection with with C.R. No. 260/2024 registered with Kannad City Police Station, Dist. Aurangabad for the offences punishable under Sections 118(1), 115(2), 74, 75, 296, 189(2), 191(2), 190, 351(2), 351(3), 352 of the Bharatiya Nyaya Sanhita and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The gist of the first information report indicates that the informant along with one female friend used to go to the college in auto rickshaw of co-accused. There was dispute between them over

payments. Pursuant to the said dispute, an incident occurred on 24.09.2024 in which auto driver along with his friends caused assault on the informant and her friend. Informant claims that in spite of knowledge that the informant belongs to the scheduled caste community, offence is committed against her and others.

3. At the outset, learned Counsel for the Appellant submits that offence under the provisions of Atrocities Act would not get applied to the present case since even it is not the case of the informant herself that the offence committed only because she belongs to the scheduled caste community. He further submits that Appellant is not named in the FIR. It is his submission that since charge-sheet is filed and nothing is to be recovered at his instance, it is a fit case for allowing the Appeal.

4. Learned APP and learned Counsel for Informant opposed the Appeal. Learned Counsel for the Informant drew attention of the Court to the Section 18 of the Atrocities Act, which according to her, disentitles the Appellant to get anticipatory bail. She opposed the Appeal by pointing out specific allegation made in the

FIR against all accused.

5. There is no dispute about the fact that now charge-sheet is filed and as such, question of custodial interrogation of the Appellant does not arise. No doubt, Section 18 of the Atrocities Act creates embargo for invoking the provisions of Section 438 of the Code of Criminal Procedure to seek pre-arrest bail, however, only on *prima facie* offence is made out under the Atrocities Act such bar can be applied. *Prima facie* in this case the offence is not seems to have been committed for the reason that the Informant belongs to the scheduled caste community. Hence, in considered view of this Court said embargo would not apply to this case. Liberty of the Appellant is protected since 24.10.2024 and he has not misused the liberty. Hence, appeal stands allowed by confirming interim order.

6. Fees of appointed Counsel is quantified at Rs. 10,000/- to be paid by High Court Legal Aid Services Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)