



order is corrected pursuant to speaking to minutes order dated 01.10.2024)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 673 OF 2024

Mahendra Madan Puri And Another
VERSUS
The State Of Maharashtra And Others

- Mr. D. M. Shinde, Advocate for the Appellants
- Mr. M. K. Goyenka, APP for the Respondent/State
- Mr. R. Wagh, Advocate for Respondent No. 3

CORAM : R.M. JOSHI, J
DATE : SEPTEMBER 30, 2024

PER COURT :

1. This appeal is filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') challenging order dated 22.07.2024 passed by learned Additional Sessions Judge, Hingoli, Dist. Hingoli in Criminal Bail Application No. 283/2024 rejecting application for anticipatory bail in connection with Crime No. 267/2024 registered with Hingoli Rural Police Station, Dist. Hingoli for the offences punishable under Sections 452, 323, 143, 147, 148, 506(2) of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act.

2. FIR indicates that the incident has occurred in two phases. At first instance, there were altercations in one hotel between the Appellants on one side and informant and others on the other side. There is allegation that thereafter allegations that they went to the house of informant and abused him over his caste. There is further allegation that they committed criminal trespass in the house of the informant and also threatened the father of the informant and abused and assaulted him.

3. Learned Counsel for the Appellants has drawn attention of the Court to the order passed by the learned Additional Sessions Judge rejecting application wherein it is specifically observed about the incident in question having not happened in public place and hence, it is not in public view. It is his submission that having regard to these facts, the offence is not made out against them.

4. Learned APP and learned Counsel for Informant opposed the Appeal by contending that the observations made by the learned Additional Sessions Judge while

rejecting the anticipatory bail application of the Appellants are incorrect. They drew attention of the Court to the police papers which according to them indicate that the incident has occurred in front of the house of the informant and other persons were present at the relevant time. Thus, it is their contention that offence under the provisions of the Atrocities Act is made out and as such, in view of the embargo created by Section 18 of the Atrocities Act, the Appeal cannot be allowed.

5. Apart from the fact that the observations made made by the learned Additional Sessions Judge that the incident in question occurred in public view, *prima facie* perusal of the statement of the witness creates doubt as to the place at which the incident has occurred or to whom the alleged utterances were made by the Appellants were made over the caste. No doubt, there is embargo created under Section 18 of the Atrocities Act from entertaining an application for anticipatory bail, however, it is settled law that if any *prima facie* offence is not made out under the Atrocities Act the said embargo would not apply. In the

instant case, this Court has serious doubt with regard to the occurrence of the incident as narrated in the FIR. Learned Counsel for the Appellants state that amongst 2 offences in one offence registered against **Appellant No. 1** is quashed by this Court in Criminal Application No. 1539/2023.

6. Having regard to the aforestated facts, the custodial interrogation of the Appellants is not necessary. This is, therefore, a fit case for protecting liberty of the Appellants. Hence, the order:

O R D E R

- (i) In the event of arrest of the Appellants in connection with Crime No. 267/2024 registered with Hingoli Rural Police Station, Dist. Hingoli for the offences punishable under Sections 452, 323, 143, 147, 148, 506(2) of the Indian Penal Code and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Atrocities Act, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one surety in the like amount.
- (ii) They shall attend the concerned police station as and when required till filing of the charge-sheet.
- (iii) They shall not contact the witnesses directly or indirectly.

- (iv) They shall not interfere with the evidence in any manner whatsoever.
- (v) They is further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)