

Ramkrishna Maroti Bangar And Others vs The State Of Maharashtra And Another on 10 February, 2025

2025:BHC-AUG:3496

2-*Cri-Appeal-1028-202

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 1028 OF 2024

- 1] Ramkrishna s/o Maroti Bangar
Age: 75 Years, Occ: Agri and Business
R/o: Patoda, Taluka Patoda
District: Beed
- 2] Vijaysingh @ Bala s/o Ramkrishna Bangar
Age: 38 years, Occ : Agri and Business
R/o: Patoda, Taluka Patoda
District: Beed
- 3] Satyabhamabai w/o Ramkrishna Bangar
Age: 70 years, Occ: Housewife and Business
R/o: Patoda, Taluka Patoda District Beed
- 4] Aabasaheb s/o Bhanudas Gopalghare
Age: 55 years, Occ: Service
R/o: Patoda, Taluka Patoda
District: Beed

... APPELLANTS

VERSUS

- 1] The State of Maharashtra,
Through Beed Rural Police Station,
Beed Taluka and District Beed
- 2] Amol s/o Babasaheb Waghmare
Age: 29 years, Occu: Labour,
R/o: Andhapuri Ghat,
Taluka and District Beed,
At present in-front of Rashtrawadi
Karyalaya, Shivajinagar, Beed

... RESPONDENTS

((2))

2-*Cri-Appeal-1028-2024

Mr. Rajendra S. Deshmukh, Senior Advocate a/w Ms Rakshanda
Rajan Jaiswal i/b Mr. Praful Bachate, Advocate for the Appellants
Ms Chaitali Chaudhari - Kutti, APP for Respondent No.1 - State
Mr. R. N. Dhorde, Senior Advocate i/b Mr. V. R. Dhorde, a/w Mr. S. S.
Dudhane, Advocate for Respondent No.2

....

CORAM : Y. G. KHOBRAGADE, J.

RESERVED ON : 03.02.2025

PRONOUNCED ON : 10.02.2025

JUDGMENT :

-

1. Heard Mr. Rajendra Deshmukh, the learned Senior counsel with Ms Rakshanda Rajan Jaiswal, instructed by Mr. Praful Bachate, the learned counsel for the Appellants, the learned APP for Respondent No.1 and Mr. R. N. Dhorde, the learned Senior counsel instructed by Mr. V. R. Dhorde, along with Mr. S. S. Dudhane, Advocate for Respondent No.2 / victim-informant.

2. By the present Appeal, the Appellants/accused have invoked the jurisdiction of this Court under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 and take exception to the order dated 19.11.2024 passed by the learned Special Judge, (Atrocities), Beed, Below Exh.1 2 of 17 ((3)) 2-*Cri-Appeal-1028-2024 in Criminal Bail Application No.1237 of 2024, whereby the prayer for pre-arrest bail was declined in Crime No. 0394 of 2024 for the offences punishable under Sections 109, 115(2), 318(4), 351(2), 351(3), 352, 61(2) of B.N.S., 2023 and Section 3(1)(r), 3(1)(s), 3(2) (va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. In a nutshell, it is the prosecution's case that, on 11.11.2024, Respondent No.2/informant lodged an oral report with Police Station (Rural), Beed alleging that, from the year 2005 till 2008, he was residing in Hutatma Deorao Magasvargiya Hostel, Bhayala, run by Shri Ramkrishna Bangar, Appellant No.1. He knows the appellant accused No.2 Vijaysingh @ Bala Ramkrishna Bangar and Smt. Satyabhamabai w/o Ramkrishna Bangar, appellant/accused No.3. He belongs to Scheduled Castes community. In the year 2012, the accused No. 1 appointed him on temporary basis on the post of Laboratory Assistant with Adarsh Kanishth Mahavidyalaya, Khalapuri. At that time, he met accused No.1 Ramkrishna Bangar. Respondent No.2 informant further alleged that, in the year 2018, accused No.1 to 3 obtained Rs.4,00,000/- from him, but, subsequently tortured him by raising an additional demand of Rs.6,00,000/- and issued 3 of 17 ((4)) 2-*Cri-Appeal-1028-2024 threats that if he fail to pay the said amount, he would be removed from his job. It is further alleged that, the accused Nos. 1 to 3 never paid him salary and whenever he asked for his salary, he was abused on the basis of his caste. The Appellant No.4 is the Headmaster of a school run by the accused Nos. 1 to 3.

4. On 10.11.2024 at about 9.00 a.m., he visited the house of accused No.1 to 3 in village Patoda and requested the Appellant no. 1 for refund of money of Rs.4,00,000/-, which was paid by him to secure the job in presence of accused No.3, Satyabhamabai Bangar and accused No.4 Aabasaheb Bhanudas Gopalghare. But accused No.1 Ramkrishna Bangar, abused him on the basis of his caste, saying "rw ekraX lektkpk vkgs] EkkaxV~;k rkyk d'kkyk ixkj ikfgts] ,drj rkyk QqdV ukdsjh fnyh vkgs] rw tj tkLr 'kgk.ki.kk dsyk rj rkyk ukSdjho:u dk<qu Vkdq vkf.k rq>s iSlS lq/nk ijr nsr ukghr " (you belongs to Matang community, why do you need salary? If you act too smart, we will fire you from your job and will not even pay you). Accused No.1 Ramkrishna Bangar, and his staff members assaulted him and drove him out of the house. Thereafter the accused No.4 Aabasaheb Gopalghare followed him and convinced that he would talk with Accused No.1 about return of money to him, hence, he waited at Patoda for considerable time, but 4 of 17 ((5)) 2-*Cri-Appeal-1028-2024 there were no contact with Accused no. 4. Therefore, he gave phone call to the accused No.4 but at that time, the accused No.4 issued him life threat. Then he started to return by an Autorickshaw towards Beed, but at about 8.30 p.m., he alighted from the Autorickshaw near Ghule Petrol Pump. It further alleged that, at that time the accused No.4 Aabasaheb Gopalghare and two other unknown persons came there on motorcycle and took him beside the road and told him that, how he dared to visit at the bungalow of accused No.1 and abused him on his caste. The accused No.4 also told him that, the accused No.1, 2 and 3 directed him to kill him with an intention that he would not enter again at the bungalow of accused no. 1. The other unknown two persons caught hold his hands-legs and laid down him and accused No.4 poured petrol on this person from bottle and set him on fire. Therefore, he sustained burn injuries to his both legs. Due to screaming, the accused No.4 and other two unknown persons fled away from the spot. Thereafter, some persons brought him at the Government Hospital, Beed.

5. The Appellants/accused filed Criminal Bail Application No.1237 of 2024 under Section 482 of the Bhartiya Nyaya Sanhita, 2023 before the learned Special Court, Beed and prayed for 5 of 17 ((6)) 2-*Cri-Appeal-1028-2024 anticipatory bail in Crime No.0394 of 2024. However, on 19.11.2024, the learned Special Court under the Atrocities Act, passed the impugned order and rejected said application.

6. Mr. Deshmukh, the learned Senior counsel for the Appellants, vehemently canvassed that, there is political rivalry between Appellant No.1 and the Guardian Minister of Beed District. Therefore, to prevent Appellant No.1 from contesting the Parliamentary and State Legislative Assembly Elections of 2024, various crimes have been registered against the appellants at the instance of the Guardian Minister which are as under:

- (1) Crime No.0236 of 2024, dated 18.09.2024, registered with Patoda Police Station, for the offences punishable under Section 420, 467, 468, 471, 120-B of the I.P.C.;
- (2) Crime No.0163 of 2024, dated 29.09.2024, registered with Shirsala Police Station, for the offences punishable under Sections 406, 420, 506 read with Section 34 of I.P.C.;
- (3) Crime No.264 of 2024 dated 09.10.2024, registered with Patoda Police Station, for the offence under Sections 406, 409, 467, 468, 471, 420 read with Section 34 of I.P.C., for the offences allegedly committed during the period w.e.f. 01.04.2010 to 28.08.2013;

(4) Crime No.0313 of 2024, registered with Neknoor Police Station, for the offence punishable under Section 109 of 6 of 17 ((7)) 2-*Cri-Appeal-1028-2024 Bhartiya Nyaya Sanhita, 2023, Sections 3, 25 and 27 of the Arms Act;

(5) Crime No.352 of 2024, registered with Ambajogai Police Station, Taluka Ambajogai, Dist. Beed, for the offence punishable under Sections 25 of the Indian Arms Act, 135 of the Maharashtra Police Act, Sections 109, 191(2), 191(3), 352 of Bhartiya Nyaya Sanhita and lastly (6) Crime No.0394 of 2024 got registered on 11.11.2024 with Beed Rural Police Station, Beed, for the offences under Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 109, 115(2), 318(4), 351(2), 351(3), 351, 61(2) of B.N.S. 2023.

7. The learned senior counsel for the Appellant canvassed that, in the FIR, the Respondent no. 2 informant, made specific allegations against the Appellants for abusing him on the basis of his caste in public view but said bare statement is not sufficient and it does not create a bar under Section 18 and 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act to consider the application for anticipatory bail. However, the learned Special Court failed to consider said fact and passed the impugned order, hence, prayed to quash and set aside the same.

7 of 17

((8))

2-*Cri-Appeal-1028-2024

8. It is further canvassed that, as per the story given in the F.I.R., on 10.11.2024, at about 8.30 p.m., the Respondent no. 2 alighted near the petrol pump on main road, at that time the accused No.4 Aabasaheb Gopalghare along with other two unknown persons visited him on motorcycle and took him beside the road. Thereafter, the Appellant/accused No.4 Aabasaheb abused him on his caste. However, the informant has not stated that, the accused No.4 Aabasaheb abused him on his caste within the public view. Therefore, bar u/s 18 and 18-A of Atrocities Act does not create the bar but the learned Special Court failed to consider said fact.

9. It is further canvassed that, as per contents of F.I.R., on 10.11.2024 at about 9.00 a.m., Respondent No.2 visited the bungalow of Appellant/accused No.1 Ramkrishna Bangar and asked for return of money which were given by him while securing employment, but the accused No.1 abused him on his caste and then employees of accused No.1 removed him. However, Respondent No.2 has not disclosed the names of those employees. Therefore, the story of FIR is concocted and just falsely implicated the Appellants with a view to keep away the Appellant No.1 from contesting the elections.

Therefore, prayed for enlarging the Appellants/accused on anticipatory bail.

10. In support of these submissions, the learned Senior counsel for the Appellants placed reliance on the following case laws.

(i) Hitesh Verma Vs. State of Uttarakhand and Another, (2020) 10 SCC 710;

(ii) Sk. Akbar Sk. Bismillah and Ors. Vs. State of Maharashtra and Anr., Judgment dated 17.07.2022, passed by this Court (Nagpur Bench) in Criminal Application (APL) No.953 of 2019;

(iii) Priti Agarwalla and Others Vs. State of GNCT of Delhi and Others, 2024 SCC OnLine SC 973;

(iv) Shajan Skarla Vs. State of Kerala and Another, 2024 SCC OnLine SC 2249;

(v) Rabindra Kumar Chhatoi Vs. The State of Odisha & Anr., Order dated 05.12.2024, passed by the Hon'ble Supreme Court in Special Leave to Appeal (Cri.) No(s). 1608 of 2020.

11. Per contra, the learned APP canvassed that the Investigating Officer conducted investigation and recorded spot panchanama as well as statements of the witnesses. The I.O. obtained the C.D.R. of the Mobile Phones of the accused and the victim. As per the call detail reports, on the day of incident at about 9.00 a.m., the 9 of 17 ((10)) 2-*Cri-Appeal-1028-2024 mobile of the informant/victim was moved in Beed, Manjarsumba, Savangi, Kaij, Chandansavargaon, Dhaygadapimpla, Parali, Lokhandisavargaon, Kaij, Hol, Manjarsumba, Beed. So also, from 22.42 hours to 23.46 hours, the mobile of Respondent No.2/victim was under tower location of Beed city. The Respondent No.2/victim was asked to produce the clothes he was wearing at the time of the incident, but he failed to do so. The Investigating Officer drawn spot panchanama as per location given by Respondent No.2/victim. The spot of incident is 2 kms., away from Ghule Petrol Pump. Therefore, statements of the witnesses from said petrol pump are not recorded. After due investigation, the Investigating Officer did not find any substance or material evidence as against the accused persons, therefore, on 30.01.2025, the Investigating Officer submitted "B" summary report before the trial Court. Therefore, prayed for passing of suitable order.

12. Per contra, Mr. Dhorde, the learned Senior Advocate, appeared on behalf of Respondent No.2 and canvassed in vehemence that, several offences are registered against Appellant No.1 Ramkrishna Bangar, which shows about criminal antecedents against the Appellant No.1 about

committing several crimes. Further, as per 10 of 17 ((11)) 2-*Cri-Appeal-1028-2024 the F.I.R., the accused/Appellant No.1 abused the Respondent No.2 on his caste in public view as per contents of Report. The Respondent no. 2 specifically alleged that, the Accused no. 1 was present in the gallery of his house and other employees removed the Respondent no.2. However, the Investigating Officer has not conducted proper investigation to show favour to the Appellants. So also, the Investigating Officer has not collected CCTV footage from the house of accused, which may prove about visit of Respondent No.2 abusing him on his caste. Therefore, the informant Respondent No.2 made a grievance with the Superintendent of Police and requested for issuance of directions to the Investigating Officer to collect CCTV footage. Since, the accused No.1 abused the informant/Respondent No.2 on his caste in the public view, therefore, under Section 18 and 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act certainly creates and it is necessary to interrogate the accused persons. The learned Senior Counsel appearing for the Respondent No.2/ Victim submitted that, the informant produced colour photographs of burn injuries sustained to the Respondent No.2. As per the injury certificate, the Respondent no. 2 received 18% serious burn injuries on his both legs, therefore, no prima-facie 11 of 17 ((12)) 2-*Cri-Appeal-1028-2024 grounds are set out to enlarge the appellants on anticipatory bail, hence, prayed for dismissal of the Appeal.

In support of these submissions, Mr. Dhorde, the learned Senior counsel relied on the following cases:-

- (i) Swaran Singh and others Vs. State through Standing Counsel and another, (2008) 8 SCC 435;
- (ii) Prashant Dagajirao Patil Vs. Vaibhav @ Sonu Arun Pawar and Another, Supreme Court Criminal Appeal Nos.55-56 of 2021;
- (iii) Shaikh Nasir S/o Shaikh Abdul Wahed Patel Vs. The State of Maharashtra, Order dated 04.07.2022, passed by this Court in Anticipatory Bail Application No.753 of 2022;
- (iv) Shaikh Naser Shaikh Abdul Wahed Patel Vs. State of Maharashtra, Order dated 27.09.2022, passed by this Court in Bail Application No.1495 of 2022;
- (v) Haridas Bhaskar Mahale and another Vs. The State of Maharashtra and another, Order dated 27.02.2023, passed by this Court in Anticipatory Bail Application No. 204 of 2023.

13. Having regard to the strenuous submissions canvassed on behalf of both the sides, I have gone through the entire record. The Appellants/accused have prayed for anticipatory bail in Crime No.0394 of 2024, registered with the Police Station (Rural), Beed, on 12 of 17 ((13)) 2-*Cri-Appeal-1028-2024 11.11.2024, for the offences under Sections 109, 115(2), 318(4), 351(2), 351(3), 352, 61(2) of B.N.S., 2023 and Section 3(1)(r), 3(1)

(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

14. No doubt, Section 18 and 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, creates a bar for grant of anticipatory bail in respect of crime registered under the Atrocities Act, if such incident is occurred in the public view.

15. In the case of Hitesh Verma, cited (supra), the Hon'ble Supreme Court held that, insults or intimidations 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 made out the case that when member of vulnerable section of the society is subjected to indignities, humiliations and harassment, because of belonging to that vulnerable section of society and such abusement should be 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 13 of 17 ((14)) 2-*Cri-Appeal-1028-2024 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."

16. In the Judgment delivered on 27.07.2022 in case of Sk. Akbar Sk. Bismillah, Criminal Application (APL) No.953 of 2019 at Nagpur Bench of this Court, it is held that, it required to made out the case for threat and intimidation in consumption with reference to the caste or community in the public view.

17. In the case of Shajan Skaria, cited (supra), it is held that Section 18 of the Act, 1989 does not impose an absolute fetter on the power of the courts to examine whether a prima-facie case attracting the provisions of the Act, 1989 is made out or not and Section 18 creates a bar the remedy of anticipatory bail only in those cases where a valid arrest of the accused person can be made as per Section 41 read with Section 60A of Cr.P.C.

18. In recent Judgment delivered on 31.01.2025, by the Hon'ble Supreme Court in Special Leave Petition (Criminal) No.8778 14 of 17 ((15)) 2-*Cri-Appeal-1028-2024

- 8779 of 2024, (Karuppudayar Vs. State Rep. By the Deputy Superintendent of Police, Lalgudi Trichy & Ors.), it is held in paragraph 11 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."

19. In case-in-hand, the Respondent no. 2 alleged that, on 11.11.2024, at about 9.00 a.m., he allegedly visited at the house of accused No.1 and demanded Rs.4,00,000/-, which were given by him while securing job but the accused allegedly abused him on his caste. The house of accused Nos. 1 to 3 is not a public place, and said utterance regarding caste was not made in public view. The F.I.R. does not suggest that, when accused No.1 allegedly abused the Respondent No.2 on the basis of his caste, the neighbors were present and observing the scene. The incident appears to be occurred within four-corners of the building walls. Therefore, considering the law laid down in the cited case laws, the bar created u/s 18 and 18-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act to enlarge the appellants on anticipatory bail.

15 of 17

((16))

2-*Cri-Appeal-1028-2024

20. Needless to say that, on perusal of colour photographs produced by Respondent No.2/complainant it shows that, the Respondent No.2 sustained total 18% injuries to his both legs below the knee. However, as per the Investigating Officer, the Respondent No.2 failed to produce his clothes which were worn by him at the time of incident. Therefore, the incident which is narrated by the Respondent no. 2 comes under the shadow of doubt.

21. Nonetheless, after considering the affidavit-in-reply filed by Shri Vishwamber Bhimrao Golde, the Investigating Officer, it appears that, no any sign of scuffle and no sign of burning of grass found at the spot of incident. Ultimately, the Investigating Officer filed "B" summary report against the appellants. Therefore, taking into consideration all these facts and circumstances of the case, I am of the view that, the Appellants are entitled to release on anticipatory bail. Accordingly, I am inclined to grant the present Appeal and proceed to pass the following order:

:: ORDER ::

(i) The Appeal is allowed.

(ii) The impugned order 19.11.2024 passed by the learned Special Judge, (Atrocities), Beed, Below Exh.1 in Criminal 16 of 17 ((17)) 2-*Cri-Appeal-1028-2024 Bail Application No.1237 of 2024 is hereby quashed and set aside.

(iii) In the event of arrest, the Appellants i.e. [1] Ramkrishna s/o Maroti Bangar, [2] Vijaysingh @ Bala s/o Ramkrishna Bangar, [3] Satyabhamabai w/o Ramkrishna Bangar and [4] Aabasaheb s/o

Bhanudas Gopalghare, be released on bail in Crime No. 0394 of 2024 for the offences punishable under Sections 109, 115(2), 318(4), 351(2), 351(3), 352, 61(2) of B.N.S., 2023 and Section 3(1)(r), 3(1)(s), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered with Beed Police Station (Rural), on execution of P.R. bond of Rs. 25,000/- each with one surety each of the like amount.

(iv) The Appellants shall attend the concerned Police Station on every Monday between 11.00 a.m. and 1.00 p.m. till filing of charge-sheet and they shall cooperate with the Investigating Officer, if required.

(v) The Appellants shall not issue threat to the witnesses and they shall not tamper with the prosecution evidence.

[Y. G. KHOBRAGADE, J.] SMS 17 of 17