

IN THE HIGH COURT OF KARNATAKA AT BENGALURU**DATED THIS THE 28TH DAY OF OCTOBER, 2022****BEFORE****THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR****CRIMINAL APPEAL NO.1605 OF 2022****BETWEEN:**

1. SRI. SANTHOSH
S/O SRI. SURESH B.S
AGED ABOUT 40 YEARS,
2. SMT. PUSHPALATHA
W/O SRI. SANTHOSH S
AGED ABOUT 29 YEARS,

BOTH ARE R/AT RATNAPURI VILLAGE,
BILIKERE HOBLI, HUNSUR TALUK
MYSURU DISTRICT 577 201

...APPELLANTS

(BY SRI SHASHIDHAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY HUNSUR RURAL POLICE STATION,
HUNSUR TALUK MYSURU DISTRICT

REP BY ITS SPP,
HIGH COURT OF KARNATAKA
BENGALURU 560 001.

2. SMT. SURYAKALA P
W/O SRI. SANDEEP S
R/AT NO. 1302, E AND F BLOCK,
14th CROSS, 4th MAIN,
RAMAKRISHNANAGARA,
MYSURU 570 022.

...RESPONDENTS

(BY SRI MAHESH SHETTY, HCGP FOR R1
SRI KESHAV M. DATAR, ADVOCATE FOR R2)

THIS CRIMINAL APPEAL IS FILED U/S.14(A)(2) SC/ST (POA) CR.P.C PRAYING TO ALLOW THE ABOVE CRIMINAL APPEAL AND SET ASIDE THE ORDER DATED 02.09.2022 IN CRL.MISC.NO.1701/2022 PASSED BY THE VI ADDITIONAL DISTRICT AND SPECIAL JUDGE AT MYSURU AGAINST THE APPELLANTS HEREIN AND CONSEQUENTLY DIRECT THE RESPONDENT POLICE AND I.O TO ENLARGE THE APPELLANTS ON BAIL AND RELEASE IN THE EVENT OF THEIR ARREST IN CR.NO.225/2022 OF HUNSUR RURAL POLICE STATION HUNSUR FOR THE OFFENCE P/U/S.354.504.506.114 R/W SEC.34 OF IPC AND SEC.3(1)(w)(i)(ii) OF SC/ST (POA) ACT 1989 AND SEC.67-A OF IT ACT, 2008.

THIS CRIMINAL APPEAL COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is filed under Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, the S.C. & S.T. Act). The appellants are accused Nos.1 and 4 in Crime No.225/2022 registered by the first respondent Police for the offences punishable under Sections 354, 504, 506, 114 IPC, Section 3(1)(r), 3(1)(s), 3(1)(w) (i),(ii) of S.C. & S.T. Act and Section 67(A) of the Information Technology Act, 2008 read with Section 34 IPC. The appellants have challenged the order dated 02.09.2022 passed by the VI

Addl. District & Special Judge, Mysuru rejecting the appellants' application for anticipatory bail.

2. Heard Sri. Shashidhar, learned counsel for the appellants, Sri. Mahesh Shetty, learned Government Pleader for respondent No.1 and Sri. Keshav M. Datar, learned counsel for respondent No.2.

3. I have perused the impugned Judgment and the objections filed by learned counsel for respondent No.2.

4. On 03.08.2022, the second respondent made a report to the police that she was subjected to humiliation and insultation in the name of her caste by the accused. Her report discloses that she married the brother of the first appellant. Theirs was an inter-caste marriage. According to the second respondent, the first incident took place on 05.04.2022 and at that time, she was insulted in the name of her caste. Again on 06.04.2022, when she was cooking food, the gas cylinder caught fire because accused No.3 had opened the connecting pipe. She has stated that her husband came and rescued her. Another allegation is that on 07.04.2022, when second respondent was taking bath, the first appellant was videographing stealthily and thereafter he threatened to disclose the video recording to others and then abused her in the name of her caste. She has

also further stated that for the last seven years, she was being subjected to insultation by all the accused.

5. The Court below has rejected the application filed by giving reasons that the materials clearly disclose that respondent No.2 was subjected to humiliation and insultation in the name of her caste and thereby Section 18 of the S.C. & S.T. Act could be invoked for rejecting anticipatory bail.

6. Learned counsel for the appellants would argue that the complaint is bereft of truth. If really second respondent was being subjected to humiliation and insultation just because she belongs to scheduled caste, nothing prevented her from approaching the police at the earliest point of time. According to her compliant, the first incident took place on 05.04.2022. But FIR was registered on 03.08.2022. There is no explanation for the delay. He also referred to photographs to argue that the accused never had any intention to insult the second respondent. The argument is that the photographs very well disclose that all the family members including second respondent participated in a birthday celebration. This itself would falsify the case of the respondent. There is a property dispute which was the reason for a false complaint to be lodged. All the four accused applied for anticipatory bail. The Court below granted

anticipatory bail to accused Nos. 2 and 3 against whom same allegations have been made. If the Court below could find good ground to grant anticipatory bail to accused Nos.2 and 3, it could have granted anticipatory bail to the appellants herein as well. This only shows that the Trial Court has not applied its mind.

7. Sri. Keshav M. Datar referring to his statement of objections would argue that it is a clear case of humiliating a woman belonging to scheduled caste. The complaint discloses that the second respondent was being subjected to insultation continuously. The C.D. produced along with the objections clearly discloses the abusive words used by the accused against second respondent. In this view, the Court below is justified in declining anticipatory bail.

8. I have perused the entire materials. Accused No.1 is the son of accused Nos. 2 and 3 and husband of accused No.4. Accused No.1 is the brother of second respondent's husband. The photographs produced along with appeal memo clearly disclose that there was a gathering of all the members of the family at the time of birthday celebration. Though the photograph was taken on 20.10.2016, it has got relevancy in the sense that the allegations found in the complaint that second respondent was a subject matter of insultation for more than

seven years, is difficult to be believed. It is not understandable as to why second respondent did not think of approaching the police immediately after 05.04.2022 if clearly any incident had taken place as alleged. I have watched the video recording found in the C.D. produced along with statement of objections. It does not contain any abusive words being used by the appellants or the other accused.

9. For the above reasons, I do not find a prima facie case to come to the conclusion that an offence under Section 18 of the S.C. and S.T. Act can be applied for denying anticipatory bail. Further, if the Court below came to conclusion that other two accused were entitled to anticipatory bail, it is not understandable as to how these appellants were denied anticipatory bail against whom same allegations are there.

10. It is the argument of Sri. Keshav M. Datar that second respondent approached police on 28.04.2022 and on subsequent occasions. But because the police did not register FIR, she approached the Hon'ble Chief Minister and on the directions issued by the Hon'ble Chief Minister to the concerned police station, FIR was registered thereafter. Even if this submission is taken to be true, still, I do not find a case coming

under the provisions of S.C. and S.T. Act. Therefore, appeal deserves to be allowed.

Accordingly, the following:

ORDER

The appeal is allowed.

The impugned order is set aside.

The appellants are admitted to anticipatory bail. In the event of their arrest in connection with Crime No.225/2022 registered by the respondent Police Station, they shall be released on bail by obtaining from them, a bond for Rs.1,00,000/- each with two sureties for the likesum to the satisfaction of the Investigating Officer. They are subjected to the following conditions:

(i) They shall co-operate with Investigating Officer for completing the investigation;

(ii) They shall appear before the Investigating Officer whenever their presence is necessary for the purpose of investigation;

(iii) They shall not threaten the prosecution witnesses and tamper with the evidence.

**Sd/-
JUDGE**

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