

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1172 OF 2018**

Bhairavnath Kashinath Dalvi	...Appellant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Aniket Nikam a/w Mr. Ashish Satpute for the Appellant

Mr. S. V. Gavand, A.P.P for the Respondent No.1-State

Mr. Balasaheb Ramchandra Deshmukh for the Respondent No.2

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY. 20th MARCH 2019

P.C. :

1 Heard learned counsel for the parties.

2 Admit. Learned A.P.P waives notice on behalf of respondent No.1-State. Mr. Deshmukh waives notice on behalf of the respondent No. 2. By consent, appeal is taken up for final disposal, forthwith.

3 By this appeal, the appellant has impugned the order dated 7th September 2018 passed by the Additional Sessions Judge-2, Baramati

below Criminal Bail Application No. 627/2018 and has sought his release on bail in the event of his arrest in C.R. No. 661/2018 registered with the Indapur Police Station, Pune.

4 The appellant has been charged for the offences punishable under Section 354A of the Indian Penal Code and Section 7(1)(d) of the Protection of Civil Rights Act and under Section 3(1)(r)w(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The submission of the learned counsel for the appellant is that the appellant has been falsely implicated in the said case. He submits that no such incident as alleged in the FIR took place on 30th August 2018. He submits that the complainant has falsely implicated him in view of the report sent by him dated 23rd July 2016 as against the complainant and others. He submits that even taking the prosecution case as it stands, no offence as alleged is disclosed *qua* the appellant.

5 Learned APP opposed the application. Learned counsel for the complainant i.e. respondent No. 2 also opposed the application and submitted that all the ingredients necessary to constitute the offence are

disclosed *qua* the appellant. He submits that not only the complainant but several other ladies were harassed and are being pressurized by the appellant.

6 Perused the papers, in particular, the statement of the respondent No. 2 complainant. It appears that an incident took place on 30th August 2018 at about 7:20 p.m, when the complainant confronted the appellant as to why the appellant was asking one Khade Kaka to give a written complaint as against the complainant. According to the complainant, at that time, the appellant passed some lewd remarks against her, i.e. she was not behaving properly with him; that she was not coming for a cup of tea with him and stated that if she was late from work, he would accompany her. She has stated that the said conduct and remarks of the appellant outraged her modesty. According to her the said remarks were made by the appellant as he knew that she belonged to the SCST category. It appears that there is some dispute between the parties i.e. the complainant and the appellant and that a report was submitted by the appellant in July 2016 as against the complainant and others, to the Depot Manager.

7 Although learned counsel for the appellant contended that no offence as alleged is made out against the appellant, it is not necessary to go into the same at this juncture. Considering the nature of allegations made by both the parties as against each other, the veracity of the complaint cannot be gone into, at this stage. It also appears that the appellant has been transferred to Narayan Gaon.

8 Considering the peculiar facts of this case, the custody of the appellant is not required. Hence, the following order :

ORDER

(i) The appeal is allowed and the appellant is granted pre-arrest bail;

(ii) In the event of arrest, the appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two local sureties in the like amount;

(iii) The appellant shall not contact or attempt to influence the complainant or any person concerned with the case;

(iv) The appellant shall report to the concerned police station on the 1st Saturday of every month between 10:00 a.m. to 12:00 p.m. for a period of six months commencing April 2019.

9 The appeal is allowed in the aforesaid terms and is accordingly disposed of.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.