

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO. 261 OF 2020

Suresh s/o Haribhau Dawale

..vs..

State of Maharashtra, thr. P.S.O. and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.A. Jaiswal, Advocate for Appellant.

Mrs. M.H. Deshmukh, A.P.P. for respondent no.1-State.

CORAM : VINAY JOSHI, J.

DATED : 29/09/2020

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. The appellant is challenging the order of rejection of pre-arrest bail passed by the Sessions Court vide its order dated 17.07.2020. The appellant apprehends to be arrested by the Police of Devlapar Police Station in connection with the offence punishable under Sections 354-A, 354(A)(1)(i), 354(A)(1)(ii), 417, 500 of the Indian Penal Code and Section 67-A of the Information Technology Act, 2008 and under Section 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred as "the SC and ST Act"). It is alleged that the Informant-lady was working under supervision of the appellant in concerned office.

3. According to the Informant, the appellant has expressed his love towards her, and particularly on 16.12.2019, while she was working, he came closure and did romance with her. After few days from said incident she came

across that the act of romancing was video graphed and was made viral and therefore, she has lodged the report.

4. Learned Counsel for the appellant brought to the notice that though the alleged incident is dated 16.12.2019, however, after long gap of two months, the report has been lodged on 13.02.2020, and therefore according to him, it was an after thought report. The Informant never stated as to what act was committed by the appellant. On the other hand, the literal meaning of the word mentioned by the Informant that the appellant was “romancing” means the mutual advances. It is also brought to the notice that prior to the lodgment of F.I.R., the appellant himself has handed over the viral clip to the Police with a request to take action which shows his *bona fides*. The entire report no where discloses the ingredients to attract the provisions of the SC and ST Act. Ad-interim Protection was granted to the appellant. Up till now, he has attended Police Station as per directions for which there is no grievance. Already, the video clip was seized by the Police from the co-accused. Perusal of reply no where makes out any substantial ground for rejection of pre-arrest protection. There is no necessity to have custodial interrogation. In view of that, appellant has made out a case for grant of pre-arrest protection.

5. In the circumstances, ad-interim protection granted to the appellant by this Court vide order dated 18.08.2020 is hereby made absolute with direction to the appellant to attend concerned Police Station on every Sunday between 10.00 am to 12.00 noon till filing of the charge-sheet.

The Criminal Appeal stands disposed of accordingly.

6. This order be communicated to the Counsel appearing for the parties, either on the email address or on WhastApp or by such other mode, as is permissible in law.

JUDGE

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