

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 303/2020.

Sushil Arun Thakare

-VERSUS-

The State of Maharashtra and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.G. Karmarkar, Advocate for the Appellant.
Ms. M.H. Deshmukh, A.P.P. for Respondent No.1.

CORAM : VINAY JOSHI, J.

DATE : SEPTEMBER 10, 2020.

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

2. It is informed that notice is duly served on respondent no.2. However, there is no appearance on her behalf.

3. The challenge in this appeal is to the order of rejection of pre-arrest bail in Criminal Misc. Application No.427/2020, by the Sessions Judge vide order dated 09.07.2020. The appellant apprehends to be arrested in Crime No. 15/2020 relating to offence

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punishable under Sections 354-A[1], 354-A[1][i], 354-A,[1][ii], 417, 500 of the Indian Penal Code read with Section 67 of the Information and Technology Act as well as Section 3[1][w][i][ii] of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

4. The appellant claims protection on the ground of innocence, false implication, seizure of mobile etc.

5. The State has opposed the bail by submitting reply-affidavit. It is contended that the appellant has actively participated in the occurrence and therefore, he is not entitled for grant of bail.

6. On the basis of report lodged by the informant against the appellant and two others, the aforesaid offence came to be registered. The prosecution case is that co-accused has outraged the modesty of the informant and at that time accused has videographed it and made the same viral. It is argued that prima facie there are no contents to attract the provisions of the SC/ST Act.

7. On perusal of the report it reveals that the allegations of outraging modesty of the informant is against the co-accused. The role ascribed to the

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appellant is that he has videographed the act of co-accused. Admittedly the police have seized the mobile from the possession of the accused. The question of applicability of the provisions of SC/ST Act needs consideration. There is no need to have custodial interrogation of the appellant, therefore, the appellant has made out a case for grant of interim protection. In view of above, the ad-interim order dated 24.07.2020, is hereby made absolute.

The appellant shall attend the concerned police station as and when required.

The Appeal is allowed and disposed of accordingly.

8. This order be communicated to the counsel appearing for the parties, either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

Rgd.