

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

CRIMINAL APPEAL NO. 305 OF 2020

Lalitkumar Shrinarayan Agrawal

..vs..

State of Maharashtra, thr.P.S.O

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

Court's or Judge's orders

Shri Atharva Manohar, Advocate for the appellant.
Mrs. M.H. Deshmukh, A.P.P. for the respondent-State.

CORAM : VINAY JOSHI, J.

DATE : 10/09/2020

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

2. The challenge in this appeal is to the rejection of pre-arrest bail by the Sessions Court in Miscellaneous Criminal Application No. 405 of 2020 dated 09.07.2020. The appellant-accused claims the pre-arrest protection on usual grounds. Besides that, it is canvassed that the contents of F.I.R. does not disclose that the ingredients to constitute the offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) 1989 (hereinafter "the SC and ST Act"). Moreover, it is submitted that the appellant is aged person and suffering from various ailments of which Medical Certificates are produced. The State resisted the bail by filing reply in affidavit. The contents of F.I.R. are reiterated and on the

ground of seriousness, the bail is resisted.

3. It is prosecution case, that the Informant-lady was working in the field as a labour. At the time of occurrence, the appellant-accused allegedly pulled the Informant and expressed his liking towards her and thus, outraged her modesty. It is submitted, that the Informant has not mentioned her caste in the F.I.R. so as to attract the provisions of the SC and ST Act. Though learned A.P.P. submitted that, the Investigating Agency has obtained Caste Certificate, however, the submission requires consideration, obviously at the time of trial. Learned Counsel for the appellant-accused submitted that the merely because victim belongs to Scheduled Caste it does not *Ipsso Facto* attract the provisions of the SC and ST Act. In support of his contention, he seeks to rely on the decision of the Hon'ble Supreme Court in the case of *Ramdas and Ors. v. State of Maharashtra reported in AIR 2007 SCC 155* where in there are observations in that regard at paragraph 10 of the judgment.

4. Having regard to the nature of the offence nothing is to be recovered. The purpose would be served, if the appellant is directed to facilitate the investigation by attending Police Station. Having regard to the nature of accusation and advanced age of appellant-accused, I find that it is a fit case for grant of pre-arrest protection.

5. In view of the above ad-interim protection granted by this Court vide order dated 14.07.2020 is hereby made absolute with modification that :

(a) The appellant-accused shall attend concerned Police Station on every Monday between 10.00 a.m. to 12.00 noon till filing of charge-sheet.

(b) The appellant-accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

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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