

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 742 OF 2021
IN
CRIMINAL APPEAL NO. 148 OF 2021

Gajanan s/o Narhari Karpe,
Age : 41 years, Occu. Nil,
R/o Jawalban, Tal. Kaij,
District Beed, at present
R/o Swarajya Nagar, Beed,
Tq. & District Beed

**APPLICANT/
APPELLANT**

VERSUS

1. The State of Maharashtra
through Police Station Inspector,
Shivaji Nagar Police Station,
Tq. and District Beed

2. Dushanta d/o Devidas Ramteke,
Age : 42 years, Occu. Service,
R/o c/o Sou. KSK College,
Beed

RESPONDENTS

Mr. N.L. Jadhav, Advocate for the applicant/appellant
Mr. S.N. Morampalle, A.P.P. for respondent No.1/State
Smt. Sheetal Waghmare, Advocate (appointed) for respondent No.2

CORAM : MANGESH S. PATIL, J.

DATE : 06.07.2021

PER COURT :

This is an application for suspension of sentence under Section

389 of the Code of Criminal Procedure coupled with a prayer for bail during pendency of the appeal against conviction of the applicant/appellant for the offences punishable under Sections 354-A, 354-D, 504 of the Indian Penal Code and Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2015 ("Atrocities Act", for short) and Section 67A of the Information Technology Act, 2000.

2. Heard the learned Advocate for the applicant, the learned A.P.P. and the learned Advocate for respondent No.2/prosecutrix.

3. Since, for the present, we are concerned only with the prayer for suspension of sentence and bail during pendency of the appeal, the scrutiny needs to be restricted.

4. The prosecutrix and the applicant/appellant have been colleagues in an education institute. She was already married having children. She alleged that applicant was stalking her and even sent her links on what's-app of some obscene material. She lodged a grievance with the Management and he was suspended. It is then alleged that annoyed by such suspension, he on two occasions intercepted her on way to home and hurled abuses on caste-line. She lodged FIR and the crime was registered.

5. Admittedly, the applicant was on bail during the trial. Though now respondent No.2/prosecutrix apprehends that the applicant would threaten and harass her for the obvious reasons, conspicuously there are no

allegations about he having misused the liberty during the trial.

6. The offences for which the applicant/appellant has been convicted under the Indian Penal Code are bailable.

7. So far as the offences under the Atrocities Act are concerned, the sentences attributed to him by the prosecutrix do not conspicuously show about the name of the caste having been suffixed or prefixed with some abuses much less in filthy language. Besides, prima facie, there are no allegations about the abuses having been hurled at her in public view. There are no eye witnesses to that incident except the prosecutrix herself.

8. Considering all the above facts and circumstances and taking into account the fact that in view of the pendency of the appeals in this Court, the appeal preferred by the applicant/appellant is not likely to be heard in the near future, the application deserves to be allowed.

9. The application is allowed. The substantive sentence is suspended pending the appeal. The applicant/appellant is released on bail on his executing a personal recognizance for an amount of Rs.25,000/- (Rupees Twenty Five Thousand) and furnishing a solvent surety in the like amount subject to the condition that he shall not make any attempt to contact the prosecutrix directly or indirectly. Bail before the Trial Court.

10. Since learned Advocate Smt. Sheetal Waghmare was appointed by this Court to defend the case of respondent No.2/prosecutrix in this application, her fees is quantified at Rs.3000/- (Rupees Three Thousand).

[MANGESH S. PATIL]
JUDGE

npj/CRIAPLN742-2021