

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.394 OF 2021

Sharukh s/o. Ayub Shaha .. Appellant
Age.27 years, Occ. Labor,
R/o. Ali Nagar Purna, Tq. Purna,
Dist. Parbhani.

Versus

1. The State of Maharashtra .. Respondents
Through Purna Police Station,
Tq. Purna, Dist. Parbhani.
2. Rekha w/o. Sitaram Sable,
Age. 52 years, Occ. Household,
R/o. Ali Nagar, Purna, Tq. Purna,
Dist. Parbhani.

Mr.G.R. Syed, Advocate for the appellant.
Mr.R.B. Bagul, APP for the respondent/State.
Mr.G.D. Jain, Advocate (appointed) for respondent No.2.

**CORAM : SURENDRA P. TAVADE, J.
DATED : 31.08.2021**

PC :-

01. Original accused No.1 in Crime No.102 of 2021 registered with Purna Police Station, for the offences punishable under sections 354, 336, 323, 504, 506 read with 34 of the Indian Penal Code and under section 3 (1)

(s)(r)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has challenged the order of rejection of his bail by the Trial Court.

02. Facts giving rise to the present appeal can be summarized as under :-

03. Informant lodged FIR on 13.03.2021, wherein it is alleged that on 10.03.2021 when she was sitting in front of her house, appellant came there and asked her son as to why he is not marrying. It is alleged that the son of the informant explained the appellant as to why he is not marrying. But, thereafter the appellant abused the informant over her caste and also outraged her modesty. It is also alleged that other two accused persons joined company of appellant No.1 and they also abused and assaulted the informant and her son. Thereafter, the FIR came to be registered. Appellant and two other persons were arrested by Purna Police Station. The appellant preferred an application for bail, which came to be rejected. Therefore, the appellant has filed present appeal.

04. It is contended that the incident alleged to have been occurred on 10.03.2021. The appellant was arrested on 17.06.2021. Since then he is in custody.

The investigation is completed. Custodial interrogation of the appellant is not required. Nothing is to be recovered at his instance. Co-accused are released on bail, therefore, it is prayed that the appellant be released on bail.

05. On the other hand, APP submitted that the incident has occurred in the courtyard of the house of the complainant. She was assaulted and therefore she was admitted in the hospital. Thereafter, she lodged the FIR. There are independent witnesses, who witnessed the incident. They have specifically stated that the appellant abused the informant and her son over their caste and humiliated them. The investigation is not completed. Therefore, it is prayed that the appeal be rejected.

06. Heard learned Counsel for the appellant and APP on behalf of the State. Perused the FIR, wherein there are specific allegations against the appellant that he abused the informant and her son over their caste. It also appears that the informant was assaulted. The prosecution produced on record medical certificate of the informant and her son, which shows that they have sustained injuries. The Investigating Officer also recorded statement of neighbours of the informant who are

not their relatives, but they are independent witnesses from Muslim community. Said witnesses also speak about alleged abuses hurled by the appellant over caste of the informant and her son. Therefore, prima facie, there is involvement of the appellant in the crime. Admittedly, the appellant came to be arrested on 17.06.2021. He was remanded to police custody for a day and since then he is in judicial custody. Custodial interrogation of the appellant is not required. The investigation is almost completed. Therefore, there is no need to keep the appellant behind the bar. Co-accused are also released on bail. Therefore, in my considered view, that the appellant is entitled for bail. With these observations, I pass following order :-

O R D E R

- i) The appeal is allowed.
- ii) The appellant is directed to be released on bail on his executing PR and SB in the sum of Rs.15,000/- [Rupees Fifteen Thousand] with direction not to tamper with the prosecution witnesses, in any manner, whatsoever.
- iii) The appellant is directed to attend Purna Police Station on every Monday between 10.00 a.m. to 12.00 noon till filing of charge-sheet.

07. Fees of advocate appointed for respondent No.2 be paid by Legal Aid Sub Committee, Aurangabad, as per rules.

[SURENDRA P. TAVADE, J.]