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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 680 OF 2021

Vivek Ramdas Shitole

...Appellant

Vs

The State of Maharashtra & Anr.

... Respondents

...

Mr. Rupesh K. Bobade for the Appellant.

Mr. A.R.Patil , APP for the Respondent-State.

Mr. Abdul H.Y.Kotwala, Appointed Advocate-legal aid for
Respondent No.2.

API S.S.Lokhande, Yawat Police Station present.

...

CORAM : SANDEEP K. SHINDE J.

DATE : DECEMBER 07, 2021.

P.C. :

1. Heard the learned counsel for the appellant and the learned Prosecutor for the State and Mr. Kotwala (Appointed Advocate) for the complainant.

2. By this appeal, appellant seeks pre-arrest bail in connection with the Crime No.602 of 2021 registered with Yavat

Police Station for the alleged offences punishable under Sections 354, 341, 342, 323, 504, 506, 363 read with Section 34 of the Indian Penal Code, 1860; Sections 3(1)(r), 3(1)(s), 3(2)(va), 3(1)(y), 3(1)(w)(i) and (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Act of 1989 for short); Section 7(1)(d) of the Human Rights Act and Section 39 of the Maharashtra Money Lending (Regulation) Act.

3. Prosecution Case :

Complainant was working as 'Salesman cum Driver' in the establishment owned by Ramdas Shitole (one of the accused) since before 2015. Around in February, 2015, he borrowed Rs.1 Lakh from Ramdas Shitole on interest. Since he could not repay the loan with interest accrued thereon, in February, 2021, Ramdas Shitole abused and hurled casteist remarks. Whereafter, complainant met with an vehicular accident. After which, he was thrashed by Ramdas Shitole and confined him in the room at Nandgaon. Following that, son of Ramdas Shitole and wife were abducted by the complainant's wife and son, and confined them in a room at Nandgaon. On 14th

February, 2021, Ramdas Shitole abused the complainant and his wife using caste coloured abuses. Whereas, appellant, (son of Ramdas Shitole) outraged the modesty of complainant's wife.

4. Though the incident had occurred in February, 2021, complaint was filed on 10th July, 2021 i.e. nearly after five months. Whereupon, crime in question came to be registered against Ramdas Shitole, his wife and Vivek Ramdas Shitole (Appellant before this Court). They sought pre-arrest bail. The learned Sessions Court granted pre-arrest protection to wife of Ramdas Shitole and declined bail to Ramdas Shitole and the appellant. Thus, this appeal under Section 14A of the S.C. and S.T. Act.

5. I have perused the complaint and the investigation papers.

6. It may be stated that on 29th July, 2021, (i.e. nineteen days after complaint) complainant's wife (hereinafter referred to 'X') informed to the police that on 23rd June, 2021, Ramdas Shitole

committed sexual assault on her. She informed that she did not divulge the incident of sexual assault immediately since she was apprehending that Ramdas Shitole would harm her husband and son.

7. It may be stated that Complainant was employee of Ramdas Shitole, for more than six years before the incident. Complaint shows that Ramdas Shitole, was aware of Complainants' caste. Ramdas extended, 'financial help' to the Complainant in 2015. It seems when Ramdas asked Complainant to repay the loan, conflict and differences arose between them. Primary evaluation of the First Information Report (FIR), therefore implies that the alleged insults or intimidation to Complainant, were made not because the Complainant belongs to Scheduled Caste. The reason or root cause as it appears, was lending and borrowing of money. Additionally neither FIR, nor the investigation paper, prima-facie, disclose the acceptable reason, for lodging the complaint nearly after five months.

8. In consideration of these facts, the allegations do not constitute an offence under the Act of 1999. Thus, in my view a

case is made out for granting pre-arrest bail to the Appellant.

9. Appeal is allowed. Hence, the following order:

ORDER

(i) Appellant in Crime No.602 of 2021 registered with Yavat Police Station, he shall be released on executing PR bond for the sum of Rs.25,000/- each with one or more sureties in like sum.

(ii) Appellant shall join the investigation as and when called.

10. The appeal is accordingly allowed and disposed of.

11. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of anticipatory bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)