

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

CRIMINAL APPEAL NO. 171 OF 2021

Amol S/o Dayaram Jadhav,
Aged about 45 years, Occ. Service,
R/o. Nirmal Apartment,
Mangalmurti Nagar Part-II,
Wadgaon, Yavatmal, Tq. Yavatmal,
District – Yavatmal.

.... **APPELLANT**

// **VERSUS** //

1. State of Maharashtra,
Through its S.D.P.O./Police
Station Officer, Police Station,
Awadhutwadi, Yavatmal, Tq. &
Distt. Yavatmal.

2. Rushali Sandip Gaikwad,
Aged about 31 years, Occ. Household,
R/o. Mangalmurti Nagar,
Nirmal Apartment, Arni Road,
Yavatmal, Tq. & Distt. Yavatmal

.... **RESPONDENTS**

Shri R.J. Shinde, Advocate for Appellant
Shri S.D. Sirpurkar, A.P.P. for respondent No.1/State
None appears for respondent No. 2 though served

CORAM : **VINAY JOSHI. J.**

DATE : **28/09/2021**

ORAL JUDGMENT

Heard.

2. **Admit.**

3. Applicant is seeking pre-arrest protection in Crime No. 296/2021, registered with Police Station Awadhutwadi, District – Yavatmal, for the offences punishable under Sections 354, 354-A, 341 and 294 of the Indian Penal Code and Sections 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The State has resisted bail by filing reply affidavit.

5. It is the prosecution case that on 25/03/2021 around 4.30 pm., the applicant has wrongfully restrained the informant in parking slot, abused and embraced her. The learned Counsel for the applicant would submit that the incident as narrated is totally false, as at the relevant time, applicant who is a teacher was at his working place. He would submit that the informant is a quarrelsome lady who has also filed Police reports against her own husband and father-in-law. The copy of said NC report is produced on record. Further the applicant has filed copy of another NC report similarly filed by informant against her own father. Besides

that applicant has produced a copy of report lodged by all flat owners putting grievance against the informant lady. Precisely, it is contended that the informant is in habit of filing various false reports and therefore all flat holders have also filed complaint against her.

6. It is submitted that the contents of First Information Report nowhere discloses that the applicant has intentionally touched the informant lady. Learned A.P.P. is unable to point out statements of any witnesses who have seen the occurrence or heard the alleged abuses. The applicant's submission that at the relevant time he was at School is supported by a certificate issued by School Authority.

7. Prima facie it appears that there is no supporting material and therefore the applicants submission about false implication cannot be ruled out in context with the documents produced on record. Nothing is to be seized at the instance of applicant. There is no complaint that applicant has misused the liberty during the period when the applicant was on interim protection.

8. Applicability of the provisions of Special Act is matter for consideration. Having regard to all these facts, applicant's liberty can be protected by imposing certain conditions. In view of that the following order.

ORDER

- (i) Application is allowed and disposed of.
- (ii) The impugned order dated 05/04/2021 passed by the learned Additional Sessions Judge, Yavatmal in Criminal Bail Application No.95/2021 at Exh.1, is hereby quashed and set aside.
- (iii) Ad-interim order dated 12/04/2021, passed by this Court is hereby made absolute on same terms and conditions.
- (iv) The applicant shall continue to attend Police Station till filing of charge-sheet.

JUDGE