

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.
CRIMINAL APPEAL NO. 484 OF 2020

Santosh s/o Purushottam Purohit
Aged about 52 years, Occ. Business,
R/o Near School No. 3, Shivaji Wesh, \\
Khamgaon, Tq. Khamgaon, Distt. Buldhanan.

.... **APPELLANT/**
APPLICANT

// **VERSUS** //

1. State of Maharashtra, through Police
Station Officer, Shivaji Nagar, Khamgaon,
Tq. Khamgaon, Distt. Buldhana.
2. Sau. Lata Nandkishor Tak,
Aged about 42 years, Occ. Nil,
R/o Mahakal Chowk, Khamgaon,
Tq. Khamgaon, Distt. Buldhana.

.... **RESPONDENTS**

Shri S.A. Mohta, Advocate for appellant/applicant.
Ms. H.N. Jaipurkar, A.P.P. for respondent no. 1-State.
Respondent no. 2 is served.

CORAM : VINAY JOSHI, J.
DATED : 08/01/2021.

JUDGMENT :

Heard.

2. **ADMIT.** By consent of the learned Counsel appearing for the parties, Appeal is taken up for final disposal.

3. The appellant is seeking to challenge the order of rejection of pre-arrest bail passed in Anticipatory Bail Application No. 416 of

2020 Crime was registered against the appellant for the offences punishable under Section 354, 354-A, 354-D of the Indian Penal Code and Section 3(1)(w)(ii) and 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the SC and ST Act”). It was alleged that on 21.10.2020 around 7.00 PM, appellant/accused went to the doorstep of informant-lady, caught hold her hand and tried to embress her. Learned Counsel for the applicant vehemently submitted that no such incident occurred but as a counter blast to earlier police report filed by brother of the appellant, against the husband of informant lady, false complaint has been filed. The State opposed the application vide affidavit-in-reply dated 24.12.2020.

4. In context to the submission, I have gone through the copy of earlier F.I.R. dated 21.10.2020 wherein the appellant’s brother has lodged report against the husband of the informant and two others about assault. On the basis of said report, Police registered Crime vide C.R. No. 443 of 2020 for the offences punishable under Sections 326, 504, 506 read with 34 of the India Penal Code. In said report, it is alleged that, the then accused have assaulted appellant at his head. The appellant has produced documents to substantiate his contention that he was hospitalized for one week due to head injury. In such a scenario, there is strong possibility of false implication as well as it

improbabilises the occurrence.

5. By virtue of interim order the appellant was directed to attend concerned Police Station which he did except one day. Learned A.P.P. sought clarification from the concerned Police who also agreed that besides on first given date, the appellant has attended Police Station. Affidavit-in-reply shows certain antecedents but the offences being very old it does not have much impact. Having regard to the nature of accusation, the appellants has made out a case for grant of pre-arrest bail. In that view of the matter, following order is passed :

- (a) The Criminal Application stands allowed.
- (b) The impugned order dated 26.11.2020 passed in Anticipatory Bail Application No. 416 of 2020 is hereby quashed and set aside.
- (c) Interim order dated 11.12.2020 is hereby made absolute on same terms and conditions except the condition of attendance.

6. The Criminal Appeal stands disposed of accordingly.

JUDGE

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