

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

CRIMINAL APPEAL NO. 136 OF 2022

Pandurang Udhav Nagargoje

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. G.D. Kale, Advocate for appellant

Mr. S.P. Sonpawale, A.P.P. for respondent no.1 – State

Ms. Rani R. Tandale, Advocate for respondent no.2 (appointed)

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CORAM : R.G. AVACHAT, J.

DATED : 05th APRIL, 2022

PER COURT :

1. This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('the Act'). The challenge in this appeal is to an order dated 25th January, 2022 in Criminal Bail Application No. 32 of 2022 passed by the learned Special Judge, Ambajogai refusing to grant the appellant anticipatory bail in connection with Crime No. 245 of 2021 registered with Parali (V) Rural Police Station, Dist. Beed for the offences punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code ('I.P.C.') and under Sections 3(1)(r)(s) of the Act.

2. Heard. Perused the First Information Report ('F.I.R.'), affidavit forwarded by the informant through post and the papers relied on.

3. The F.I.R. has been lodged on 20th October, 2021 by mother of the deceased – Sandhya in relation to the incident dated 6th/7th October, 2021. It has been averred in the F.I.R. that deceased – Sandhya had married with one Kishor Hatagale. Since Kishor was addicted to alcohol and used to harass her, she has returned to her parental house three years before. For about five months next before registration of the F.I.R., deceased – Sandhya was staying at Latur for taking education. It has further been averred that about a month before 20th October, 2021, deceased – Sandhya had told the informant on phone that she was emotionally involved with the appellant herein. Both of them had decided to marry. About fifteen days thereafter she told the informant that the appellant has started harassing and ill-treating her. He has her photographs in his cell phone. He threatened that if she did not come to meet him, he will viral her photographs. It is further averred that on 07th October, 2021 the village Sarpanch told the informant that Sandhya is admitted in the Government Hospital, Ambajogai. The informant, therefore, rushed to the hospital. She met Sandhya to learn from her that the appellant had asked her to come to his village lest he would make her photographs viral. She, therefore, went to his village and his house also. The appellant's father told the appellant that he would not allow the deceased to be his

daughter-in-law since she belongs to the scheduled caste. He also asked the appellant not to allow her to stay at his house any longer. The appellant, therefore, asked Sandhya to leave. She stayed put there. It was also informed by the deceased that since she could not bear mental harassment, did end her own life.

4. Learned counsel for the appellant would submit that the appellant's father, who allegedly abused the deceased over her caste had been arrested and released on bail as well. The deceased did not leave behind any suicide note. There is delay of little over twelve days in lodging the F.I.R. The appellant is ready to surrender his cell phone. The deceased committed suicide as she was hyper sensitive. According to learned counsel, custodial interrogation of the appellant is not warranted. The appellant has not committed any offence under the Act. He, therefore, urged for allowing the appeal.

5. Learned A.P.P. and learned counsel representing the complainant would, on the other hand, submit that an innocent woman had to commit suicide because of the behaviour of the appellant and his father. The allegations in the F.I.R. make out an offence against the appellant punishable under the Act, and therefore, there is bar under Section 18 of the Act to grant pre-arrest bail. His custodial interrogation is warranted so as to recover his cell phone data. They, therefore, urged for dismissal of the appeal.

6. The deceased had previously married. She had however not been staying with her husband for little over three years. She was taking education at Latur. She had acquaintance with the appellant. The acquaintance developed into a love affair. It appears that the appellant would insist her to join and stay with him. It is averred in the F.I.R. that the appellant too would harass her, and therefore, she was reluctant to join. On the previous day of the incident, the appellant allegedly asked her to come to his house lest would viral her photographs. She, therefore, went to the house of the appellant. It does appear that it was the appellant's father, who asked the appellant not to let her stay in the house as his wife since she belongs to lower caste. As such, the offence under the Act was made out against the appellant's father. He was arrested and released on bail as well. Admittedly, the deceased did not leave behind any suicide note. There is delay of little over twelve days in lodging the F.I.R. What has been averred in the F.I.R. was allegedly reported by the deceased to her mother – informant. The F.I.R. itself narrates that the deceased could not bear with all the happenings, and therefore, she committed suicide. Admittedly, the deceased had stayed overnight at the house of the appellant. Same indicates proximity between the two. The appellant is ready to surrender his cell phone. In the given facts and circumstances of the case, this Court finds it to be a case to grant pre-arrest bail to the appellant.

7. In view of above, criminal appeal is allowed. Interim relief granted to the appellant vide order dated 18th February, 2022 is hereby confirmed on the same conditions. The appellant shall surrender his cell phone to the Investigating Officer within two days from the date of this order. Fees of Ms. Tandale, learned counsel appointed for Respondent No.2, is quantified to Rs.5,000/-.

(R.G. AVACHAT, J.)

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