

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

CRIMINAL APPEAL NO. 647 OF 2021

Rakesh Nagorao Tidke

..APPELLANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. A.N. Patil Barhate, Advocate for appellant

Mrs. G.L. Deshpande, A.P.P. for respondent no.1 – State

Mr. A.G. Jadhav, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATED : 31st JANUARY, 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 challenge herein is to order dated 30th November, 2021 passed by learned Additional Sessions Judge, Nanded thereby rejecting application for anticipatory bail in connection with Crime No. 768 of 2021 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 3(1)(r), 3(1)(w)(ii), 3(2) and 3(2)(va) of the Act and under Sections 354-D, 323, 504 and 506 of the Indian Penal Code.

2. Heard. Perused the First Information Report ('F.I.R.') and related papers.

3. Both, the learned A.P.P. and learned counsel for Respondent No.2 – informant would submit that averments in the F.I.R. prima facie make out involvement of the appellant in the offence/s in question, and therefore, in view of Section 18 of the Act, there is bar for grant of anticipatory bail. They, therefore, urged for dismissal of the appeal.

4. The F.I.R. has been lodged by a thirty one years old lady against twenty one years old appellant herein. It has been averred in the F.I.R. that the informant has been serving as sweeper with one hospital at Nanded. She has been residing at village Bondar. She shuttles between her work place and the native place every day for attending duty. The appellant used to follow her on her way to Nanded and even back. The informant rears hens. The appellant used say the informant that he had a good cock suitable for her hen. It has been alleged that the appellant has all along been teasing her and used to follow her wherever she would go. On 27th October, 2021 by 07.30 p.m., the informant along with her son was on way back home on the motorbike. The appellant intercepted them at Bondar Shivar near the onion market and uttered some words. When the informant's son intervened, the appellant slapped him and abused over the caste. The informant, thereafter went her home, related the incident to her husband and other family members and then lodged the F.I.R.

5. True, if we take the allegations in the F.I.R. as it is, it may appear that the offence is made out. The informant is a thirty five years old lady. The appellant is of twenty one years of age. The incident took place by 07.30p.m. on 27th October, 2021. The informant did not directly approach the police station thereafter. She went home and shared the said incident with her husband and other family members and on the next day afternoon lodged the report. As such, there is considerable delay in lodging the F.I.R. The informant had deliberation with her husband and other family members there before. Possibility of having given a colourful version to the complaint may not be ruled out.

6. In the fitness of things, the appeal succeeds. Hence the following order :-

ORDER

(i) Criminal appeal is allowed.

(ii) Order impugned herein is hereby set aside.

(iii) In the event of arrest of the appellant in connection with Crime No. 768 of 2021 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 3(1)(r), 3(1)(w)(ii), 3(2) and 3(2)(va) of the Act and under Sections 354-D, 323, 504 and 506 of the Indian Penal Code, he be released on executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iv) The appellant shall not tamper with the prosecution evidence.

(v) The appellant shall appear before the Investigating Officer as and when required.

(R.G. AVACHAT, J.)

SSD