

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 81 OF 2021

Sonu @ Pramod Nanaso Khomane : Appellant

Versus

The State of Maharashtra and Anr. : Respondents

Mr. Rupesh A. Zade, for appellant.

Ms. G. P. Mulekar, APP for respondent/State.

Ms. Manisha Jagtap appointed for Respondent No.2 a/w Mayuresh Ingle.

CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ

DATE : 25th APRIL, 2022

P.C.

1. Heard the learned counsel appearing for the appellant, learned APP for the respondent/State, and the learned counsel appearing for the 2nd respondent.

2. The learned counsel appearing for the appellant invites attention of this Court to the allegations made in the FIR, and submits that event if the allegations made in the FIR are read in its entirety, no offence is made out against the appellant. He submits that there are no allegations against the appellant in the FIR which would attract provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submits that this Court has already granted interim protection to the appellant by way Interim order and therefore, this appeal may be allowed.

3. The learned APP appearing for the respondent/state invites attention of this Court to the allegations made against the appellant in the FIR and submits that the offences as alleged against the appellant have been disclosed, therefore, appeal may be dismissed.

4. The learned counsel appearing for the 2nd respondent adopted arguments advanced by the learned APP and in addition to it submits that allegations made against the appellant would attract the provisions of the Special Act.

5. In the FIR, the main allegations are made against the Appellant's brother Aditya. The utterances with respect to the caste of the complainant are attributed to the Appellant's brother Aditya. It appears that the main allegations of the complainant were against the Appellant's brother Aditya. The allegations against Aditya are serious. However, the main grievance against the present Appellant appears to be that he had not given his permission for marriage and in that reference some insulting statements are attributed to him. The FIR is mainly against the Appellant's brother. The main allegations of commission of offence punishable under Section 376 of IPC are against the Appellant's brother. The charge-sheet is already filed. There is sufficiently strong probability that the Appellant is roped in as he is brother of the main accused Aditya and as he has not given permission for the marriage. However, this issue will have to be finally decided during trial.

6. In this view of the matter, custodial interrogation of the Appellant is not necessary. He is already protected by an interim order since 8.2.2021 i.e. for more than one year. There is nothing to show that the Appellant has misused this liberty. Therefore, the Appeal can be allowed. It is made clear that these observations are restricted to passing of this order. Hence, the following order:

ORDER

- (i) In the event of arrest of the appellant, in connection with C.R. No.07/2021 registered with Daund police station, he shall be released on bail on furnishing PR. bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) The appellant shall not tamper with the evidence of prosecution.
- (iii) The appellant shall report to the concerned police station once in a four fortnight.
- (iv) Appeal stands disposed of.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]