

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 771 OF 2022

Manoj Nanasaheb Nikam	..Appellant.
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Ritesh Thobde a/w. Sagar S. Tambe for Appellant.
Smt. M. R. Tidke, APP for State/Respondent No.1.
Mr. Sushil A. Inamdar (Appointed Advocate) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 7th DECEMBER 2022**

PC :

1. The Appellant has challenged the order dated 25/07/2022 passed by learned Special Judge, Solapur, in Criminal Bail Application No.752 of 2022. In effect, the Appellant is seeking anticipatory bail in connection with C.R.No.294 of 2022 registered with Sadar Bazar Police station for the offences punishable under sections, 323, 417, 504 and 506 of I.P.C. and under sections 3(1)(r), 3(1)(s), 3(2) and 5 of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989.

2. Heard Mr. Ritesh Thobde, learned counsel for the Appellant, Smt. Tidke, learned APP for the State and Shri. Sushil Inamdar, learned counsel for the Respondent No.2.

3. The F.I.R. is lodged by the Respondent No.2. She has stated that, she belonged to a Scheduled Caste. She had lost her husband in the year 2007. She had two daughters and a son from her marriage. She was earning her livelihood through a business of Tea canteen and by providing lunch boxes. The Appellant used to visit her Tea stall. Since 2005 she was knowing him. She has mentioned that, they developed intimate relationship and since 2008 they were having regular physical relations. About 5 years before lodging of F.I.R. the Appellant had abused her with reference to her caste and had assaulted her. The subject matter of this F.I.R. is about the incident dated 07/04/2022. She has alleged that, on that date she had met the Appellant for taking her monetary dues regarding lunch boxes provided to the Appellant. There are allegations that, at that time, the Appellant told her that he was not willing to marry her and that he would not accept her caste. It is also alleged that thereafter she called him telephonically

on many occasions, but he used to abuse and threaten her. On this basis the F.I.R. was lodged.

4. Learned counsel for the Appellant submitted that the allegations are not true. The F.I.R. is lodged because of dispute between the Appellant and the first informant. They were in relationship for the long period of time. He submitted that, there is unexplained delay in lodging the F.I.R. The Appellant himself had lodged an F.I.R. vide C.R.No.217 of 2022 with Akkalkot police station on 18/05/2022 itself.

5. Learned counsel for the Respondent No.2 opposed this Appeal based on the averments made in the F.I.R. Learned APP also opposed this Appeal. She produced the investigation papers. However, she conceded on the basis of investigation papers that there was no witness to the incident dated 07/04/2022 except the informant's daughter. There was no corroborative evidence in support of the incident which had allegedly taken place before lodging of F.I.R.

6. I have considered these submissions. The alleged

incident which is the subject matter of this F.I.R. was dated 07/04/2022 and the F.I.R. is lodged on 18/05/2022. This delay is not explained. The F.I.R. itself shows that, the Appellant and the first informant had long standing physical relationship and there used to be some dispute between them. The F.I.R. is result of this dispute. There are no independent witnesses. The informant had reason to implicate him falsely because the relationship did not culminate in the marriage. The Appellant has also lodged the F.I.R. against the Respondent No.2 on 18/05/2022. There are no other independent witnesses. Even the incident which had taken place five years before lodging of F.I.R. is not supported by any other evidence. In this view of the matter, the Appellant has made out a case for relief of anticipatory bail. It is made clear that, all these observations are made only for passing of this order. The trial Court shall not be influenced by any of these observations at appropriate stage of trial.

7. Hence, the following order:

O R D E R

- i) The Appeal is allowed.
- ii) In the event of his arrest in connection with C.R.No.294 of 2022 registered with Sadar Bazar Police station, Solapur the Appellant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- iii) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)