

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO. 94 OF 2022

APPELLANT: Vishnu s/o Ram Rasal,
Aged about 30 years,
Occupation: Education, R/o Vairagad,
Tah. Chikhali, District Buldhana.

..V E R S U S...

RESPONDENTS 1. State of Maharashtra,
through Police Station Officer,
Police Station, Amdapur,
Tah. Chikhali, District-Buldhana.

2. Shalini Suresh Gawad,
Aged about 48 years, Occupation :Labour,
R/o Indira Nagar, Ward No.3, Amdapur,
Tah. Chikhali, District-Buldhana.

Shri Anup S. Dhore, Counsel for appellant.
Shri M.J.Khan, APP for the Respondent No.1.
Shri Ranjeet Singh V. Gahilot, Counsel for Respondent No.2.

CORAM : ANIL S. KILOR, J.
DATE : 25th March,2022

ORAL JUDGMENT :

1. Heard Shri A.S. Dhore, learned counsel for the
appellant, Shri M.J.Khan, learned APP for the respondent No.1 /
State and Shri Ranjeet Singh V. Gahilot, counsel for respondent
No.2.

2. **ADMIT.**

3. In this case, the appellant is praying for pre-arrest bail in Crime No.13/2022, registered with Police Station, Amdapur, Tah. Chikhali, District Buldhana for the offences punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(r), 3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act for short the 'Atrocities Act'.

4. The allegations of the FIR are that, the deceased had love affair with the wife of the applicant and on many occasions, the applicant tried to pursue the deceased to discontinue the relations with his wife. However, it is alleged that because of such repeated attempts on the part of the applicant, the deceased committed suicide on 14/11/2021. Accordingly, the complaint came to be lodged against the applicant and his wife on 10/01/2022.

5. The learned counsel for the appellant submits that he has been falsely implicated in the alleged offence and it can be seen from the fact that the date of commission of suicide and date of lodgment of the FIR. It is submitted that there is no explanation

offered by the complainant for lodging the FIR at belated stage. He, therefore, prays for grant of anticipatory bail by confirming the order dated 24/02/2022 granting *ad-interim* anticipatory bail.

6. Shri M.J.Khan, learned APP strongly opposed the application and submits that there are allegations which would attract the provisions of Atrocities Act and therefore, the bar under Section 18 would come in the way of the applicant.

7. Learned counsel for the respondent No.2/ complainant reiterated the submission of the learned APP and further submits that looking to the defence raised by the appellant, it can be seen that the appellant is trying to create a picture that he is not involved in the alleged offence. It is pointed out that even he is now denying the relations between both the accused persons i.e. the relation of the appellant with accused No.2 -Sau. Savitri Vishnu Rasal.

8. I have perused the case diary and also the contents of the FIR.

9. Looking to the allegations made in the FIR, it can be seen that the behavior of the applicant as husband in the present case is natural, who tried to convince the deceased to discontinue

his relations with the wife of the applicant. It cannot be said that the applicant has committed the alleged offence only because the deceased was belonging to a particular caste.

10. Thus, in absence of any *prima-facie* material available on record to show that the alleged act was committed by the applicant only because the deceased was belonging to Scheduled Caste, I am of the opinion that *prima-facie* no offence is made out under the provisions of Atrocities Act. Hence, the bar under Section 18 would not come in the way of the appellant in this case.

11. As far as the other allegations are concerned, I am of the considered view that the custodial interrogation of the applicant is not necessary.

12. In the circumstances, I am of the opinion that the present appeal needs to be allowed by confirming the order dated 24/02/2022 and setting aside the order dated 08/02/2022 passed by the learned Sessions Judge, Buldhana. Accordingly, I pass the following order:

a] The Appeal is allowed.

b] The order below Exhibit No.1 dated 08/02/2022 passed by the learned Additional Sessions Judge, Buldana in Anticipatory Bail Application No. 23/2022 is hereby quashed and set aside.

c] The order dated 24/02/2022, granting ad-interim bail is confirmed with a modification that the appellant shall attend the Police Station on every Saturday between 10.00 am to 12.00 noon for next three weeks

The Criminal Appeal stands **disposed of** accordingly.

[ANIL S. KILOR, J.]

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