

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

CRIMINAL APPEAL NO. 533/2020

(Ravindra S/o Kesharao Mendhe V/s. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. P. P. Jamnik, Advocate for appellant.
Mr. M. J. Khan, APP for respondent Nos. 1 and 2.
Mr. A. A. Pannase, Advocate for respondent No. 3.

CORAM :- SURENDRA P. TAVADE, J.

DATED :- 08.02.2022

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the appellant, learned APP for respondent Nos. 1 and 2 and Mr. A. A. Pannase, learned Advocate for respondent No. 3.

3. This is an appeal against the order dated 19.12.2020 passed by the Additional Sessions Judge, Yavatmal in Criminal Bail Application No. 328/2020. One Sau. Sarita Pawar – informant lodged complaint against the applicant on 09.08.2020. It is alleged in the First Information Report that on 08.08.2020 at 05.00 p.m., the informant along with one lady namely Shirke Pawar went to answer the nature's call near the river. At that time, applicant came there. On seeing applicant, the informant raised shouts. The applicant abused informant

and another lady in filthy language pertaining to their caste and also threatened to kill them. Therefore, informant lodged report. On the basis of the report, crime bearing No. 280/2020 came to be registered against the applicant for the offence punishable under Sections 354(C), 294, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(w)(i)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC and ST Act').

4. On the basis of allegations in the FIR, learned counsel for the appellant submits that there are no allegations against the applicant that he abused informant and another lady over their caste and humiliated them. He submits that the trial Court has wrongly interpreted the provisions of SC and ST Act and rejected the application. It is contended that the custodial interrogation of the applicant is not required. There is no possibility of tampering of witnesses. He therefore prays for bail.

5. On the other hand, learned APP has filed reply, wherein it is contended that the informant belongs to the Scheduled Tribe Category. The applicant tried to outrage the modesty of the informant and abused on her caste. Therefore, offence under the provisions of SC and ST Act is made out. Hence, there is bar of Section 18 of the SC and ST Act to entertain the present appeal. It is

contended that the statement of informant and another lady have been recorded. There are specific allegations against the appellant that he tried to outrage the modesty of the informant and threatened her. Therefore, offence is made out against him and investigation is in progress.

6. Heard the learned counsel for the appellant and learned counsel for the respondents. It appears that there is no averment in the FIR which constitute the *prima facie*. There is nothing to show that the informant was humiliated over her caste within the 'public view'. On perusal of FIR, it appears that the applicant went to the place where the informant and another lady went to answer the nature's call. On seeing the applicant, the informant raised shouts therefore, he abused informant and another lady, and also threatened them. Seeing lady while answering nature's calls can be called a breach of privacy of the women. The report was filed in the month of August 2020. The Statement of witnesses are already recorded. The investigation is almost completed. Nothing is to be recovered at the hands of the applicant. It is apprehension of the prosecution that the applicant may threaten the informant or tamper with the prosecution witnesses. Said apprehension can be avoided by imposing condition. Therefore, in view of allegations made in the FIR and the stage of investigation, I am of the opinion that the applicant is entitled for pre-arrest bail. Hence, I pass following order:-

(I) Application stands allowed and disposed of.

(II) Order dated 30.12.2020 is hereby made absolute on the same terms and condition with a direction to attend the concerned Police Station as and when called by the Investigating Officer.

(SURENDRA P. TAVADE, J)

JITENDRA
BHARAT
GOHANE

Digitally signed
by JITENDRA
BHARAT
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