

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPEAL NO. 682 OF 2022

Satish S/o Devidas Chopde,
Aged about 38 Years, Occ.Labour,
R/o Ghusar, Tah. and Dist. Akola

.... Appellant

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Akot Fail, Dist. Akola
2. XYZ in Crime No. 588/2022 through
PSO Akot Fail, Dist. Akola

... Respondents

Shri V.S.Mishra, Advocate for appellant.
Shri S.D.Sirpurkar, APP for the respondent/State.
Shri M.S.Futane, Advocate for the respondent no.2.

**CORAM : ANIL S. KILOR, J.
DATED : 23rd NOVEMBER, 2022**

ORAL JUDGMENT :

This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of anticipatory bail in Crime No. 588 of 2022, for the offence punishable under Sections 354, 354D, 323, 504 read with Section 34 of the Indian Penal Code, Sections 8 and 12 of the Protection of Child from Sexual Offences Act, 2012 (in short referred as 'POCSO Act') and Section 3(1)(r), 3(1)(w) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short referred as 'Atrocities Act').

2. In this case even if the allegations are taken on its face value, there are no allegations which would attract the provisions of the Atrocities Act and therefore, I am of the opinion that *prima facie* no case is made out against the applicant under the Atrocities Act. In that view of the matter the bar under Section 18 of the Atrocities Act would not attract in this case.

3. As far as the allegations in relation to Sections 354, 354D, 323, 504 of the Indian Penal Code are concerned, there are no independent witnesses and further more there are counter First Information Reports. Thus, it appears that some dispute is there between the parties. In the circumstances, *prima facie* there is no incriminating material is available against the applicant to attract the said provisions, I am therefore of the opinion that custodial interrogation of the appellant is not necessary.

4. In this case, Sections 8 and 12 of the POCSO Act are invoked as on the date of incident the informant was 17 years old. However, considering the allegations and the enmity between the parties, I am of the opinion that the appellant is entitled for grant of anticipatory bail. Accordingly, I pass the following order.

- i. Criminal appeal is allowed;
- ii. The order dated 23rd September, 2022, passed by the learned Additional Sessions Judge, Akola in Misc. Criminal Application No. 726 of 2022, is hereby quashed and set aside;

- iii. It is directed that in the event of arrest in connection with Crime No. 588 of 2022, for the offence punishable under Sections 354, 354(D), 323, 504 read with Section 34 of the Indian Penal Code, Sections 8 and 12 of the Protection of Child from Sexual Offences Act, 2012 and Section 3(1)(r), 3(1)(w) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant shall be released on bail on furnishing P.R.Bond of Rs.25,000/- with one solvent surety in the like amount;
- iv. Appellant shall attend the concerned Police Station as and when his presence is required.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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