

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 334 OF 2023

Vijay Pundlik Rakde

Age: 39 years, Occu: Agriculture, Service

R/o At Khamgaon, Tq. Phulambri,

District Aurangabad

... Appellant

Versus

The State of Maharashtra

Through Wadod Bazaar Police Station,

District Aurangabad

... Respondent

...

Advocate for the Appellant : Mr. N. S. Ghanekar

APP for the Respondent No.1/State: Mr. A. V. Deshmukh

Advocate for Respondent No.2: Mr. P. B. Kadam

...

CORAM : S. G. CHAPALGAONKAR, J.
[Vacation Court]

DATE : 19.05.2023

PER COURT :

1. The present appeal is filed under Section 14(A) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 [hereinafter referred to as 'the Act' for short], thereby challenging the judgment and order dated 06/04/2023, passed by the learned Special Judge, Sessions Court, Aurangabad, in Criminal Bail Application No.635/2023. The similar prayer of the appellant for grant of bail has been rejected under the impugned order.

2. Mr. Ghanekar, learned Advocate would submit that, the appellant has been arrested on 01/04/2023 in pursuance of the registration of

Crime No.63/2023 for the offences punishable under Sections 354 and 504 of the Indian Penal Code and Section 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Act with Wadod Bazaar Police Station, Taluka Phulambri, District Aurangabad, on the complaint given by respondent No.2, alleging that on 27/03/2023 at about 9:00 am when she reached her college for practical examination, the appellant obstructed her near security cabin and dragged her. It is further alleged that, the appellant abused in reference to her caste.

Mr. Ghanekar, learned Advocate would also submit that, the place of incident is the main gate of the college premises where security cabin is constructed by using glass. The alleged incident took place at 9:00 am when the large number of students enters in the college through the said gate. He would submit that on the face of it, the narration of incident appears to be concocted. He would further submit that, though the alleged incident has taken place on 27/03/2023, the FIR has been lodged on 31/03/2023. As such, there is an inordinate delay of four (04) days. He would further submit that, the appellant had questioned the complainant while taking photographs with an unknown boy and she had apprehension of disclosure of such incident to her family, who is conversant with the appellant. Hence false allegations are made against the appellant so as to pressurize him. Mr. Ghanekar, would also point out that, the appellant is behind the bars for more than seven weeks and urge to enlarge the appellant on the bail.

3. Learned APP as well as Mr, Kadam learned Advocate appearing for respondent No.2 oppose the prayer on the ground that, the investigation is in progress and charge-sheet is not filed till date. They would urge that, the offences are serious in nature, thereby outraging the modesty of a young girl belonging to backward class. They urge that the appellant may misuse the liberty and create hurdle in progress of investigation.

4. Having heard the submissions advanced by the Advocates appearing for the respective parties and after going through the record, it appears that, the appellant is behind the bars for more than seven weeks. Further, there is a delay of more than four days in lodging the FIR. Looking to the nature of the allegations in the FIR, no purpose would serve by continuing further detention of the appellant. There is nothing to investigate further, and same is practically over. The incident took place in broad day light in the premises of the college, no independent supporting evidence is placed in service.

It appears that, the learned Sessions Judge rejected the application mainly on the ground that, investigation is in progress. The time of more than six weeks is over from the order 06/04/2023 passed by the Sessions Court. Now, there is nothing to cause further investigation in the matter.

5. In that view of the matter, the appeal deserves to be allowed and the appellant deserves to be released on bail. Hence, I proceed to pass the following order:

ORDER

(i) Appeal is allowed.

(ii) The judgment and order dated 06/04/2023, passed by the learned Special Judge, Sessions Court, Aurangabad, in Criminal Bail Application No.635/2023 is hereby quashed and set aside.

(iii) The appellant be released on bail on his furnishing P.B of Rs.15000/- with one solvent surety of the like amount, on the following conditions:

(a) The appellant shall attend Wadod Bazaar Police Station, Taluka Phulambri, District Aurangabad once in a week i.e. on every Sunday between 10:00 am to 12:00 noon, till filing of the charge-sheet.

(b) He shall not tamper with the prosecution evidence,
in any manner.

(c) He shall co-operate with the investigation.

(S. G. CHAPALGAONKAR, J.)

Sameer