

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 713 OF 2023

Vishnu S/o Namdeo Wankhede,
Age 27 years, Occ: Agriculture,
R/o. Palaspur, Tq. Himayatnagar,
Dist. Nanded

...Appellant

Versus

1. The State of Maharashtra

2. Sow. Saloni Sunil Wadekar

...Respondents

Mr. S. S. Shinde, Advocate for the Appellant.
Mr. V. S. Badakh, APP for Respondent No. 1— State.
Mr. D. S. Ingole, Advocate h/f Mr. S. S. Dargad,
Advocate for Respondent No. 2.

CORAM : R.M. JOSHI, J.

DATE : OCTOBER 13, 2023

ORDER

1. This appeal is filed under Section 14(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') challenging order dated 26.07.2023 passed by learned Additional Sessions Judge, Bhokar, Dist. Nanded rejecting application for bail in connection with Crime No. 146 of 2023 registered with Himayatnagar Police Station, Dist. Nanded for the offences punishable under

Sections 354-A of Indian Penal Code and Sections 3(1)(w)(ii) & 3(2)(va) of the Atrocities Act.

2. First informant reported on 08.07.2023 incident occurred on that day alleging that at about 11.30 am Appellant came in front of her house and that he dropped one mobile phone and told her he likes her. This was seen by the husband of the informant. It is also stated that prior to one month of the said incident, Appellant had called her on the mobile phone expressing his liking towards her. It is contention of the informant that only because of the fact that she belongs to SC community he has done so and hence, report is lodged.

3. Learned Counsel for the Appellant submits that there is no offence made out under the provisions of Atrocities Act. It is his submission that the contention of the informant does not find any substance. It is also submitted that nothing is to be recovered at the instance of Appellant. With regard to applicability of Atrocities Act, it is submitted that even if the allegations in the FIR are accepted, it cannot be said that the same is done only with the

reason that the informant is a member of SC community.

4. Learned APP and learned Counsel for informant have opposed the Appeal by contending that when admittedly informant is member of SC community, the acts done by the Appellant needs to be treated as offence.

5. There is no dispute about the fact that the Appellant and the informant have acquaintance. Even if it is accepted that the contention of informant is correct, at the most reflects that the Appellant had expressed his liking towards her. There is absolutely nothing on record to indicate that merely because informant belongs to SC community, he has expressed in that manner. *Prima facie* this Court, therefore, find it difficult to accept that any offence has been committed under the provisions of Atrocities Act. As far as offence alleged under IPC is concerned, the same is bailable.

6. Learned Counsel for the informant has raised apprehension that if the Appellant is granted anticipatory bail, then he will pressurize the

informant as they hail from the same village.

In response thereof, learned Counsel for the Appellant, on instructions, made statement that the Appellant will not enter the jurisdiction of the village till filing of the charge-sheet.

The said statement is accepted as an undertaking to this Court. This will take care of the apprehension of the informant.

7. In view of above, Appeal stands allowed.

Hence, the order:

O R D E R

- (i) In the event of arrest the Appellant in connection with Crime No. 146 of 2023 registered with Himayatnagar Police Station, Dist. Nanded for the offences punishable under Sections 354-A of Indian Penal Code and Sections 3(1)(w)(ii) & 3(2)(va) of the Atrocities Act, he shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) with one surety in the like amount.
- (ii) He shall attend the concerned police station as and when required.
- (iii) He shall not enter the jurisdiction of village – Palaspur till filing of the charge-sheet.
- (iv) He shall not contact the witnesses directly or indirectly.

- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) He is further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)

Malani