

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

CRIMINAL APPEAL NO.776 OF 2023

**KALYAN BHAGWANRAO WADJE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. A. M. Gaikwad, Advocate for the appellant
Mrs. G. L. Deshpande, APP for the respondent/State
Mr. A. G. Jadhav, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 11th SEPTEMBER, 2023

P.C. :-

1. This appeal is under Section 14(A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SC and ST Act') against order dated 11th August, 2023 passed in Bail in Crime No. 173/2023 rejecting regular bail under Section 439 of Cr.P.C.
2. The informant is Sarpanch of village Haldav, Tq. Loha, Dist. Nanded and it alleged by her that on 25/07/2023 at around 6.30 p.m. an incident occurred wherein the appellant outrage her modesty by inappropriately hold of her hand and pulling her towards him. On the basis of these allegations offence came to be registered against the appellant punishable under Sections 354-A, 452 of IPC and Sections 3(1)(w)(i), 3(1)(w)(ii) and 3 (2)(va) of the SC and ST Act.

3. Learned counsel for the appellant states that having regard to the nature of crime the investigation is practically over and hence there is no reason or justification to deny the regular bail to the appellant. He claims that there are no criminal antecedents against the appellant. Learned counsel for the appellant on his submission makes voluntary statement at for the period of one month the appellant will not enter the jurisdiction of village concerned.

4. Learned APP and learned counsel for the informant opposed the said contention by referring that the informant is Sarpanch and in spite of this fact her modesty has been outraged by the appellant. It is therefore his contention that the investigation to the crime is not over and hence it is not the case for grant of bail.

5. Having regard to the nature of allegations against the appellant, practically investigation in to the crime is over. The first information report indicates that there was no one else was present at the time of occurrence of the incident and hence the question of recording any statement of other witnesses also does not arise. The learned Addl. Sessions Judge was not justified in refusing the application for bail. Having regard to the allegations, the appellant cannot be kept behind the bar by way of pre trial sentence. In view of the voluntary statement made by the learned counsel for the appellant, care can be taken of the

apprehension raised by the learned counsel for the informant. Hence the following order:

ORDER

(i) Appeal is allowed.

(ii) In the event of arrest of appellant in connection with Crime No. 173/2023, registered with Loha Police Station, Dist. Nanded for the offences punishable under Sections 354-A, 452 of IPC and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the SC and ST 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.

(iii) He shall attend the concerned police station once in a week.

(vi) 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.

(vii) He shall not enter the vicinity of the village concern for the period of one month from today.

(R. M. JOSHI, J.)

ssp