

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

**CRIMINAL APPEAL NO.777 OF 2023**

Navnath s/o Narayan Bhosle,  
Age-41 years, Occu:Agri.,  
R/o-Kond, Tq. and Dist-Osmanabad.

**...APPELLANT**

**VERSUS**

- 1) The State of Maharashtra,  
Through the Police Station Officer,  
Dhoki Police Station,  
Tq. and Dist-Osmanabad,
- 2) X. Y. Z.

**...RESPONDENTS**

...

Mr. S.B. Jadhav Advocate h/f. Mr. Abhijit S. More Advocate  
for Appellant.  
Ms. V.S. Choudhari, A.P.P. for Respondent No.1.

...

**CORAM: SMT. VIBHA KANKANWADI AND  
ABHAY S. WAGHWASE, JJ.**

**DATE : 30<sup>th</sup> AUGUST, 2023**

**ORDER :**

1. Present Appeal has been filed to challenge the rejection of application filed by the present appellant under Section 438 of the Code of Criminal Procedure i.e. Criminal Bail Application No.342 of 2023 before the learned Special Judge under the

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short "the Atrocities Act"), Osmanabad. The said bail application came to be rejected on 14<sup>th</sup> July 2023. The appellant is apprehending his arrest in connection with Crime No.229 of 2023 registered with Dhoki Police Station, District-Osmanabad for the offence punishable under Sections 376-D, 354, 506 read with Section 34 of the Indian Penal Code and Sections 3(1)(s), 3(1)(w)(i), 3(1)(w)(i)(ii) of the Atrocities Act, lodged by respondent No.2.

2. It was tried to be submitted that there is delay in lodging the First Information Report (for short "the FIR"). The incident alleged to have taken place on 18<sup>th</sup> June 2023, however the FIR has been lodged on 20<sup>th</sup> June 2023. There are stray allegations about committing rape on the informant, however, it appears that the appellant has been falsely implicated.

3. Learned APP submits that the FIR contains the complete allegations as to how the things had happened. The appellant had knowledge about the fact that victim is member of scheduled tribe. The learned trial Judge appears to have given a lawful, legal and correct order.

4. Perusal of the FIR would show that the informant has given her status i.e. she is the member of scheduled tribe, so also she says that after the appellant had forceful sexual intercourse with her, he gave threat to the informant as well as the another lady who is stated to be the mother-in-law of her son, that they are belonging to scheduled tribe and they will not be able to cause any harm to the accused. Taking into consideration the contents of the FIR, the offence under the Atrocities Act is *prima facie* attracted and therefore, there was bar for the application under Section 438 of the Code of Criminal Procedure in view of Section 18 of the Atrocities Act. There is merit in the Appeal and it deserves to be dismissed as the threshold.

5. Accordingly, the Appeal stands dismissed.

**[ABHAY S. WAGHWASE]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**