

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

CRIMINAL APPEAL NO. 897 OF 2023

Sushilabai Sukadeo Chavan & Others

...Appellants

Versus

The State of Maharashtra & Others

...Respondents

Mr. S.S. Bora, Advocate for the Appellant.

Mr. V.S. Badakh, APP, for the Respondent – State.

Mr. J.S. Jain, Advocate appointed for the Respondent No. 4

...

CORAM: R.M. JOSHI, J

DATE : 3rd NOVEMBER, 2023

PER COURT :

1. Appellants apprehend arrest in connection with with C.R. No. 230/2023 registered with Taloda Police Station, Dist. Nandurbar for the offences punishable under Sections 376(N), 420, 494, 504, 294 read with 34 of the Indian Penal Code and under sections 3(1)(r)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. First Informant claims that she has acquaintance with the Nitin Chavan, son of appellant No. 1, who was posted as Police Inspector at Taloda Police Station. It is her contention that in March-2019, she got acquainted with him as he was investigating the crime in connection with the murder of her uncle Amarsingh. She claimed that said acquaintance later on turned into love relations. She questioned him as to how he maintains love relations with her when he is already married. She claimed that he told her that since her wife is not

begetting the child, he is going to take divorce from her and thereafter he would marry her. By relying on the said assurance she continued the relationship with him. After his transfer from Taloda police station to Nandurbar, a room was taken by him on rent and at that place he used to establish forcible physical relations with her. Other allegations are made against co-accused of pressurizing for abortion etc. There are no allegations against these applications in FIR, but in supplementary statement allegations are levelled against them.

3. Learned counsel for the appellants submits that there is absolutely no allegations against the present appellants in the FIR they being assaulted the victim and or insulted her over her caste. He further submits that in the supplementary statement for the first time victim has taken name of present appellants and as such possibility of false/over implication cannot be ruled out.

4. Learned counsel appointed for informant opposed the appeal contending that this is a clear-cut case of establishing physical relations on the basis of false promise of marriage. He also claims that the supplementary statement clearly indicates involvement of the appellants in the crime and assaulting the victim.

5. Learned APP opposed the appeal by referring to the statement of informant and witnesses. It is submitted that appellants have insulted the victim over her caste and therefore offences

punishable under Atrocities Act get attracted to them and hence it is a fit case for rejecting the anticipatory bail.

6. Perusal of FIR shows that there are no allegations made against the present appellants. Even accepting the statement of informant in FIR as well as the supplementary statement coupled with the statement of mother of informant, no offence is made out against the present appellants attracting the provisions of Atrocities Act. The only offence which can be made out against them could be punishable under section 323 of IPC, which is a bailable offence.

7. Having regard to these facts, liberty of the Appellants deserve to be protected. The appeal is therefore allowed in terms of order dated 13.10.2023.

[R.M. JOSHI, J.]