

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 996 OF 2022

SANJAY SURYABHAN KALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Appellants : Adv. Tayde Pooja H.

APP for Respondent No.1/State : Mr. P. M. Kulkarni

Advocate for Respondent No.2 : Mr. Narwade Narayan B.

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CORAM : KISHORE C. SANT, J.

DATE : 3rd FEBRUARY 2023.

Per Court :

Heard.

1. This is an appeal seeking regular bail in connection with the offence registered with the Rahuri Police Station, Dist. Ahmednagar dated 02.12.2022 bearing FIR No.1242/2022. The application for bail is rejected by the learned Additional Sessions Judge, Ahmednagar by order dated 20.12.2022.

2. The allegations in the FIR are that the respondent, who is present applicant/accused no.2 has assaulted the Informant by abusing in the

name of cast. There are injuries received in the assault and on that count, the crime is registered for the offences punishable under Sections 323, 324, 504, 506 read with 34 of the Indian Penal Code, 1860 and under Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('Atrocities Act' for short).

3. The learned Advocate for the appellant submits that since last two months, the appellant is in jail. She further submits that the allegations are only offence under Section 324 of the IPC and the maximum punishment provided is only three years for the offence under Section 324. Now the investigation is also completed. No purpose will be served by keeping appellant behind the bar.

4. The learned APP submits that the investigation is still in progress and if the appellant is released on bail, there is possibility of bringing pressure on the witnesses by the appellant. He further submits that though the FIR is lodged under the Atrocities Act, there is every possibility of tampering of the evidence etc.

5. The learned Advocate for respondent no.2 vehemently opposed grant of bail. He submits that though there is earlier dispute pending between the parties and the same cannot be said to be the reason for lodging the FIR now under the Atrocities Act. He submits that as there are injuries received by his mother and wife and he himself also has received the injuries, this is not a case to grant bail. He further submits that the investigation is still in progress. At this stage, releasing the appellant on bail, will affect the investigation and moral of the witnesses.

6. Considering that there is previous enmity between the parties and even against respondent no.2, offence was registered at the hands of one of the accused person in this crime for the offence punishable under Section 12 of POCSO Act. There is also an offence registered against the informant on 26.05.2022 at the instance of wife of the present appellant. Looking to the injuries and looking to the punishment for the offence punishable under Section 324 of the IPC, this Court finds that the appellant deserves to be released on bail. Hence the following order.

ORDER

- (i) The Criminal Appeal is allowed.
 - (ii) The appellant shall be released on bail in connection with FIR registered with Rahuri Police Station, Dist. Ahmednagar dated 02.12.2022 bearing FIR No.1242/2022 on executing P. R. bond and solvent surety in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only).
 - (iii) The appellant shall not enter the Village and shall attend the concerned Police Station as and when called by the Investigating Officer till filing of a charge-sheet.
 - (iv) The appellant shall not tamper with the evidence and shall not try to contact any of the witnesses.
7. With this, the Criminal Appeal is disposed off.

[KISHORE C. SANT, J.]

Najeb.