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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.948 OF 2023

Khodadad Minoo Irani] .. Appellant
vs.Stat
State of Maharashtra & Anr.] .. Respondents

Mr.Niranjan Mundargi i/b Rishikesh Mohite for the Appellant.
Mr.S.R. Agarkar, APP for the State.
Ms.Vrushali Raje, for Respondent No.2.
PSI Mangesh Mundhe, Dahanu Police Station, Palghar, present.

CORAM : BHARATI DANGRE, J

DATE : 27th September, 2023.

P.C.

1] By order dated 28.08.2023, the Appellant was admitted to protection from arrest in CR No.0168/2023 registered with Dahanu Police Station, Palghar, which has invoked Sections 376, 376(2)(n), 342, 504 of the IPC and Sections 3(1)(W)(i), 3(1)(W)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2] Appreciating the arguments advanced on behalf of the Appellant, notice was issued to Respondent No.2 and by recording that prima case was made out for grant of interim protection from arrest, the appellant was protected.

3] On the Respondent having been served, Ms.Raje represent Respondent No.2 and she has invited my attention to the complaint lodged by the prosecutrix in respect of the incident which is alleged to have taken place in the month of February, 2021.

When the FIR is perused by me, I cannot but find myself in agreement with the observations made by the Division Bench, while admitting the Appellant to protection, as the only ground which is sought to be put into service for explaining the delay of more than 3 years, is she was under pressure.

The FIR discloses that three months before she came to the Police Station her husband overheard the prosecutrix in conversation with the Appellant on phone and therefore she disclosed the previous incident of sexual assault to him.

Prima facie, the aforesaid explanation deserve a trial to verify its authenticity and justiciability.

I cannot but concur with the Division Bench which had conferred interim protection, as ultimately the accusations will have to go for trial which definitely are coming belatedly and as a result, there is no evidence, except the statement of the prosecutrix.

4] The learned APP on instructions of the Investigating Officer makes a statement that the investigation is on the verge of completion and charge sheet shall be filed within a period of two weeks from today. A specific statement is made that the Appellant had rendered co-operation in the investigation and the custodial interrogation is no more necessary.

In the wake of the above, order dated 28.08.2023 is made absolute.

It is made clear that while the Appellant enjoy the protection, he

shall not in any way, influence the prosecutrix or her family members or pressurize her in any manner so as to dissuade her or her family members from deposing against him in the trial.

[BHARATI DANGRE, J]