

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPEAL NO. 8/2023

Bandu @ Pintu s/o Dadarao Misal

..Appellant

versus

The State of Maharashtra

Th: Its PSO PS Hiwarkhedn Dist.Buldana and another ..Respondent/s

.....
Mr.A.J. Thakkar, Adv. for the appellant

Mr N.R. Rode, APP for Respondent No.1

Mr. D.V. Sapkal, Advocate (appointed) for Respondent No.2

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CORAM: ANIL L. PANSARE, J.

DATED : 1st March, 2023.

PC:

Heard the learned counsel for respective parties at length.

2. This is an appeal under section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short, “the Atrocities Act”). The appellant is aggrieved by the order dated 12.12.2022 passed below Exh. 4 in Special Case No.98/2022 by the learned Special Judge, Khamgaon rejected his application seeking bail.

3. The applicant has been arrested on 27.09.2022 in Crime No. 150/2022 registered with Police Station Hiwarkhed Tq.Khamgaon Dist.Buldana, for the offences punishable under sections 354A, 324, 294, 504, 506 of the Indian Penal Code and Sections 3(1)(w)(i), (ii), (r), (s) and Section 3(2)(5a) of the Atrocities Act.

4. The informant /Respondent No.2 is a widow, aged about 32

years having two children. The accusation against the appellant is that he sought sexual favour from the informant, but she refused. The appellant then abused and threatened her and challenged to bring as many people as she can from her community i.e. "Buddhist" religion and thereafter assaulted her by means of stick. As a result, she sustained injuries on her waist and hands. The people nearby came to her rescue.

5. The learned APP and the learned counsel for the respondent no. 2 have rightly argued that the appellant has made an attempt to exploit the widow, on seeing she is all alone. Firstly, he sought sexual favour and upon refusal, the appellant has abused her in the public place and also challenged her to get the people from her community and thereafter assaulted her with stick. This fact coupled with the criminal antecedents of the applicant would lead to dismissal of the instant appeal. These crimes have been registered against the appellant. The first is Crime No 70/2013 registered with Police Station Hiwarkheda for the offences punishable u/ss. 307, 324, 143, 323, 336, 148, 149 and 506 of the IPC. Another is Crime No.73/2018 registered at Police Station Buldana, for the offences punishable u/ss. 324, 504, 506 r/ws.34 of IPC. Thus, the criminal activities continued unabated.

6. In the circumstances, if released on bail, there is every possibility that the applicant will either commit another offence or will tamper or pressurize the prosecution witnesses. In the circumstances, the only relief that could be extended to the appellant is to permit him to file an application afresh once the material witnesses are examined before the trial court. Hence the following order :

ORDER

The Appeal is dismissed with the liberty to the appellant to approach the trial Court afresh after material witnesses are examined in the trial.

7. The professional fees of Ms. D.V.Sapkal, Advocate (appointed) be quantified and paid as per Rules.

[ANIL L. PANSARE, J.]

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