



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

940 CRIMINAL APPEAL NO. 357 OF 2024

Pintu @ Devidas Waman Rathod

..APPELLANT

-VERSUS-

1. State of Maharashtra
2. XYZ

..RESPONDENTS

Advocate for Applicant : Mr. Gangakhedkar Shailendra S.
APP for Respondent/State: Mr.M.K. Goyanka
Advocate for respondent no.2 : Mr.Pangal Pratik Prashant

...
CORAM : **SHIVKUMAR DIGE, J.**

DATE : 20th June, 2024.

P.C.:

1. By this appeal, the appellant is challenging the order below Exhibit-110 passed by the learned Sessions Judge, Omerga in Special Case No.1 of 2016, whereby trial Court has refused to grant bail to the appellant.
2. It is contention of the learned counsel for the appellant that the appellant is charged under sections 376(1), 506 of the Indian Penal Code read with section 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. All witnesses have been examined. The appellant could not appear before the trial Court due to accident of his wife and children and his father was paralyzed. The appellant was absent for three dates before the trial Court. Hence the trial Court issued non-bailable warrant against the appellant. The

appellant suo-moto appeared before the trial Court for cancellation of NBW but the trial Court took the appellant in magisterial custody and thereafter rejected the bail application of the appellant. The learned counsel further submitted that the appellant will go on with the matter. Keeping the appellant behind bar would cause problem to the family of the appellant as the appellant's father is paralyzed and his wife and children are met with an accident. The appellant will attend each and every date before the trial Court. He will not prolong the matter. Hence, he requested to allow the appeal.

3. It is contention of the learned APP that the appellant willfully avoided to appear before the trial court. Even the surety of the appellant was not co-operating with the trial Court to produce the appellant before the Court after issuing non-bailable warrant. If the appellant is released on bail, the appellant may abscond and the trial may be prolonged. Trial Court has considered all these aspects and passed the reasoned order. Hence, he requested to dismiss the appeal.

4. The learned counsel for respondent no.2 submits that the appeal be allowed.

5. I have heard all the learned counsel. Perused the impugned order.

6. During the course of trial, the appellant was on bail. If the appellant is released on bail with direction that he shall not seek further

adjournment, it would suffice the purpose. Hence I pass the following order :-

ORDER

- (i) The Appeal is allowed.
- (ii) The order below Exhibit-110 passed by the learned Sessions Judge, Omerga in Special Case No.1 of 2016 is quashed and set aside.
- (iii) The appellant in connection with FIR No.11 of 2015 registered with Lohara Police Station, Dist. Osmanabad, for the offence punishable under sections 376(1), 506 of the Indian Penal Code read with section 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act be released on executing personal bond in the sum of Rs.30,000/- with one surety of the like amount, subject to costs of Rs.1,000/- to be deposited with the office of the Government Pleader for E-Library and Rs.1,000/- with the Library, Advocates' Association of Bombay High Court, Bench at Aurangabad, within a week from today.
- (iv) After release, the appellant shall not seek adjournment before the trial Court.

[SHIVKUMAR DIGE, J.]