



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

**CRIMINAL APPLICATION NO. 1644 OF 2024
IN APPEAL/368/2024**

Babasaheb Yashwanta Kute
Age: 70 years, Occu.: Agriculture,
R/o. At/Post Songiri, Tal.Bhoom,
Dist.Dharashiv (Osmanabad).

....Applicant

Versus

1] The State of Maharashtra
Through Investigating Officer,
Bhoom Police Station,
Tal.Bhoom, Dist.Dharashiv (Osmanabad).

2] XXX

.....Respondents

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Advocate for Applicant : Mr. Akshay Kalyan Bade
APP for Respondent no.1 : Mrs.Ashlesha S.Deshmukh
Advocate for Respondent no.2 : Mr.Jitendra Jain (appointed)

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 MAY, 2024

PRONOUNCED ON : 08 MAY, 2024

ORDER :-

1. This is an application for suspension of sentence and grant of bail by virtue of judgment and order of conviction passed by the Special Judge (Under S.C. & S.T. Act), Bhoom,

Dist.Osmanabad in Special Case (Atro.) No.09 of 2020 dated 18-03-2024.

2. Learned Counsel for the applicant pointed out that there is false implication. That there are allegations of catching hold of hand of informant. That accused is over 70 years of age. That informant is also of almost similar age. That alleged occurrence is of 06-12-2019 and FIR is lodged on 11-12-2019 i.e. after five days. Therefore, there is delayed FIR. That because of business rivalry, there is false implication. That conviction under Sections 354, 354-A of the Indian Penal Code (IPC) and under Sections 3(1)(w), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is questioned by filing Criminal Appeal bearing no.368 of 2024, but as it would take sufficient long time to be heard and decided, relief of suspension of substantive sentence and grant of bail is prayed for.

3. Above application is opposed both by learned APP as well as learned Counsel representing victim, who is present in the

Court today. It is submitted that accused had evil eye on victim. While she was alone, accused made advances and also caught hold of her hand. He also issued threats and invited her to his house saying that his wife is not at home. Therefore, his bad intentions were explicit. As son of victim was out of station, there is delay in lodging FIR. For all above reasons, it is prayed that relief be refused.

4. After considering the submissions of both sides and on going through the papers, it is emerging that, crime was registered for commission of offence under Sections 354, 354-A, 504, 506 of the Indian Penal Code (IPC) and under Sections 3(1)(w), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. Operative part of the impugned judgment and order shows that case of prosecution is accepted and charges under Sections 354, 354-A of the IPC and under Sections 3(1)(w), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act are held to be proved and applicant is sentenced to suffer rigorous imprisonment for two years and one year respectively and to

pay fine for each of the above offences. Applicant is said to be almost 70 years of age. Perused the deposition of victim. Considering the nature of accusations and the fact that much more time would be required to hear and decide appeal, relief as prayed deserves to be granted. Accordingly, I proceed to pass following order :

ORDER

- (I) Criminal Application stands allowed.

- (II) The substantive sentence imposed on the applicant in Special Case (Atro.) No.09 of 2020 by the learned Special Judge (Under S.C. & S.T. Act), Bhoom on 18-03-2024 stands suspended till the final hearing and disposal of Criminal Appeal No.368 of 2024.

- (III) The applicant Balasaheb Yashwanta Kute be released on P.R. Bond of Rs.30,000/- (Rs. Thirty thousand only) with two solvent sureties in the like amount.

- (IV) The applicant shall not commit any criminal activity.

- (V) The applicant shall remain present before the learned trial Judge once in six months, till final hearing

and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

(VI) In case of two consecutive defaults on the part of the applicant to remain present before the trial Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.

(VII) Bail before the trial Court.

(VIII) Fees of learned Counsel appointed to represent respondent no.2 is quantified @ Rs.3,000/- to be paid through the High Court Legal Services Sub-Committee, Aurangabad.

(ABHAY S. WAGHWASE)
JUDGE