



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

CRIMINAL APPEAL NO. 437 OF 2023

SONALI JALBAJI KAMBLE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Mahesh K. Bhosale, Advocate for Appellant

Mrs. V.S. Chaudhari, APP for Respondent No.1 – State

Mr. Mr. S. S. Koche, Advocate h/f Mr. Pravin S. Maske, Advocate for Respondent No.2

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 29th JANUARY, 2024

PER COURT :

1. By this appeal, appellant challenges order dated 18/04/2023, passed by learned Additional Sessions Judge and Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Aurangabad, in Bail Application No.717/2023, thereby granting regular bail to respondent No.2.

2. Appellant/informant lodged FIR bearing C.R. No.115/2023, with Bidkin Police Station, Aurangabad, which is registered for offence punishable under Sections 354-A, 354, 324, 452, 504 of the Indian Penal Code and Sections 3(1)(r)(s), 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In short, it is alleged by appellant/informant that she belongs to scheduled caste and on 02/01/2023 at about 12:00 noon, her sister-in-law was washing clothes and respondent No.2 was watching her from terrace of his

house. Informant, therefore, told her sister-in-law that she should wash the clothes inside as people are watching her. Second respondent assuming that informant was referring to him, came there and abused informant by taking name of her caste and assaulted her by iron rod. He also allegedly caused bite on her lips and thereby outraged her modesty. Pursuant to registration of crime, respondent No.2 came to be arrested on 05/04/2023. He, therefore, preferred Bail Application No.717/2023, which was allowed by the trial Court on 18/04/2023. Hence, present appeal.

3. Heard learned advocate for appellant, learned Additional Public Prosecutor for State and learned advocate for respondent No.2. Perused the documents placed on record.

4. Learned advocate for appellant strenuously urged that taking into consideration the injuries suffered by informant/appellant and the serious allegations leveled in the FIR, trial Court has committed error in releasing second respondent on bail. He submits that bail granted by the trial Court is liable to be canceled and respondent No.2 is required to be placed in custody.

5. Learned advocate for respondent No.2, on the other hand, supported the impugned order submitting that considering the facts of present case, learned Sessions Judge is justified in releasing respondent No.2 on bail.

6. Learned Additional Public Prosecutor by placing on record copy of the charge-sheet for perusal of this Court, has argued

that appropriate orders in the facts of present case may be passed.

7. Trial Court has granted regular bail by considering the fact that second respondent was arrested on 05/04/2023 and he is remanded in magisterial custody, therefore, his further custody is not required for the purpose of investigation. Investigation is on the verge of completion and only formality of filing charge-sheet is remaining. Second respondent has no previous criminal record against him and therefore, pre-trial detention of second respondent is not necessary. So as to avoid apprehension to pressurise victim and other prosecution witnesses, the trial Court has directed respondent No.2 to attend concerned police station on every Monday and Thursday between 03:00 p.m. to 04:00 p.m. for a period of one month and thereafter on every Monday till filing of charge-sheet.

8. Charge-sheet came to be filed in the present case on 19/05/2023. The purpose of grant of bail is to secure presence of accused. Bail is rule and jail is exception. No exceptional circumstances are made out by appellant in present appeal to warrant cancellation of bail granted to second respondent. In that view of the matter, there is no merit in appeal. Appeal is, therefore, dismissed.

(NITIN B. SURYAWANSHI, J.)