



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 683 OF 2024

1. Prasad Bahiru Darkunde
2. Bahiru Laxman Darkunde

VERSUS

The State Of Maharashtra And Another

- Mr. S. B. Dushing, Advocate for the Appellants
- Mr. B. B. Bhise, APP for the Respondent/State
- Ms. S. G. Sonawane, Advocate for the Respondent No. 2

CORAM : R.M. JOSHI, J
DATE : OCTOBER 09, 2024

PER COURT :

1. Appellants are seeking bail in connection with crime no. 278/2024 registered with Kotwali Police Station, Dist. Ahmednagar for the offence punishable under Section 376(2)(n), 354-A, 354-D, 363, 365, 366, 343, 506 read with Section 34 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r), 3(1)(s), 3(1)(w), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The gist of the FIR is that the informant claims that she is married lady and Appellant No. 1 still used to stalk her. There is allegation in respect of incident dated 10.02.2024 wherein the Appellant no.

1 forcibly took her to his house. There is allegation against him is that he established physical forcible relationship with her. Allegation is also made against Appellant No. 2, who is father of the Appellant No.1, that he also demanded sexual favours from her. There is however no allegation that he actually established any physical relations with her.

3. Learned Counsel for the Appellants submit that now investigation is over with filing of the charge-sheet. He drew attention of the Court to the affidavit executed by the informant as well as photographs which according to him indicates consensual relations between Appellant No. 1 and informant. Thus, there is no propriety in keeping Appellants behind bars.

4. Learned APP and learned Counsel for Informant opposed the bail citing seriousness of the crime.

5. There is no dispute about the fact that the informant had stayed at the house of Appellants for a period of 24 days. FIR is lodged on 05.03.2024. In the light of these facts, the photographs placed before this Court assumes importance. The photographs, on the

face of it, indicates that the Appellant no. 1 and informant were having something more than cordial relationship. The affidavit placed on record as well as the agreement between Appellant No. 1 and informant also supports the case of the Appellants. Since the investigation of the crime is over, and there is no likelihood of the Appellant absconding, the Appeal deserves to be allowed.

6. Hence, the order:

O R D E R

- (i) Appeal is allowed.
- (ii) Appellants in connection with crime no. 278/2024 registered with Kotwali Police Station, Dist. Ahmednagar for the offence punishable under Section 376(2)(n), 354-A, 354-D, 363, 365, 366, 343, 506 read with Section 34 of the Indian Penal Code and Sections 3(2)(va), 3(1)(r), 3(1)(s), 3(1)(w), 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, shall be released on bail on furnishing PB & SB of Rs. 20,000 (Rupees Twenty Thousand Only) each with one solvent surety in the like amount.
- (iii) They shall attend the concerned police station as and when required.
- (iv) They shall not contact the witnesses directly or indirectly.

- (v) They shall not interfere with the evidence in any manner whatsoever.

(R.M. JOSHI, J.)