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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.815 OF 2023

Akil Rajdin Shaikh

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. R. R. Karpe, Advocate for the appellant

Mr. S. B. Jadhav, APP for respondent - State

Mr. Chetan Chaudhary for J.P.Legal Associates, for respondent
No.2

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 2nd JANUARY, 2024

ORDER :

1. This appeal, filed under section 14-A of the Scheduled Castes and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short Atrocities Act), impugns judgment and order passed by learned Additional Sessions Judge, Shrigonda in Criminal M.A. No. 542 of 2023, by which anticipatory bail application filed by the appellant under section 438 of the Criminal Procedure Code is rejected.

2. FIR at Crime No. 527 of 2023 is lodged against appellant and his son Ajim at Karjat Police Station, District Ahmednagar for offence punishable under sections 354, 341, 323, 504, 506,

read with 34 of the Indian Penal Code and under section 3 (1) (w), 3 (1) (w) (ii), 3 (1) (r), 3 (1) (s) and 3 (1) (va) of the Atrocities Act.

3. Prior to lodging of the present FIR, offence at Crime No. 300 of 2023 was lodged against son of appellant by father of the victim for offence punishable under sections 363, 366-A, 376 (2) (n) of the Indian Pneal Code and under section 3, 4, 5 (1), 6 and 12 of the Protection of Children From Sexual Offences Act. Son of appellant, namely, Ajim was arrested in connection with the said offence and he is released on regular bail in said offence.

4. After release of Ajim on regular bail, after one month, present FIR is lodged, wherein the victim has alleged that on 13th August, 2023 while she was proceeding towards a grocery shop, Ajim came on motorcycle and took her to his house on the pretext of handing over documents and photographs to her. When they reached at the house, appellant was present there and he asked Ajim as to why the victim was brought there. On that Ajim told him that her documents are with him and those are required to be returned. Ajim then took the victim inside the house. Victim alleges that at that time, appellant was outside the house and from there he yelled that the victim is used by his son and she will be required to come to their house, and abused her.

5. Pursuant to the FIR, in question Ajim was arrested and he is released on regular bail. Anticipatory Bail Application filed by the appellant is rejected by the Trial Court on the ground that serious allegations are levelled against appellant and his custodial interrogation is necessary as the appellant has abused the victim in the name of her caste.

6. Heard learned advocate for the appellant, learned APP for the State and learned advocate for the second respondent – victim. Perused the investigation papers.

7. Bare reading of the FIR reveals that only allegation against appellant is that he has yelled from outside of his house and told the victim that his son has used her and she will be required to come to their house. Though the victim alleges that he gave abuses to her, no specific abuses are mentioned in the FIR. Therefore, *prima facie*, provisions of the Atrocities Act do not seem to be attracted in the facts of the present case. Trial Court has ignored this aspect while rejecting anticipatory bail application of the appellant. In the facts of the present case, custodial interrogation of the appellant is not necessary.

8. In the result, following order -

ORDER

- A. The appeal is allowed.
- B. Impugned judgment and order passed by Additional Sessions Judge, Shrigonda in Criminal M.A. No. 542 of 2023 is quashed and set aside.
- C. In the event of arrest of the appellant in Crime No.527 of 2023 registered at Karjat Police Station, District Ahmednagar, appellant be released on executing PB and SB of Rs.15,000/- with one surety in the like amount.
- D. Appellant shall attend the concerned police station from 5th January, 2024 to 10th January, 2024 everyday between 10.00 a.m. and 12.00 noon and shall co-operate in the investigation.
- E. Appellant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE