



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

CRIMINAL APPEAL NO. 186 OF 2024

MANIK PANDURANG DHAKARGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Vikram S. Kadam, Advocate for Appellant
Mr. S.V. Hange, APP for Respondent No.1
Mr. Prathamesh Chaudhari, Advocate h/f Mr. R. R. Karpe, Advocate
for Respondent No.2

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 21th FEBRUARY, 2024

PER COURT :

1. This appeal takes exception to the order dated 02/09/2023, passed by learned Additional Sessions Judge-5, Parbhani, in Criminal Bail Application No.670/2023, thereby rejecting anticipatory bail to appellant in C.R. No.297/2023, registered with Nanalpeth Police Station, Parbhani, for offence punishable under Sections 376(1) and 506 of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(1)(r)(s) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Prosecutrix lodged report on 05/08/2023, alleging that appellant has shown willingness to help prosecutrix to get tractor on subsidy and caste certificate of her son. On that pretext he called prosecutrix to meet him along with documents. He then took her in one room and kept his mobile on. Thereafter, he raped prosecutrix

by threatening her that he will make the video viral.

3. Heard learned APP for respondent No.1/State, learned advocate for appellant and learned advocate for respondent No.2. Perused the investigation papers.

4. Initially charge-sheet in the present crime is filed on 30/09/2023 under Section 299 of Cr.P.C. Thereafter, appellant was granted interim protection by this Court on 28/11/2023 and his medical examination is conducted. From investigation papers, there is no material to show that appellant has committed alleged offence because prosecutrix belongs to scheduled caste, therefore, *prima facie* no offence punishable under Atrocities Act is made out against appellant. Hence, bar under Section 18 would not attracted in the facts of the present case. As investigation is complete and charge-sheet is filed, pre-trial custodial detention of appellant is not necessary.

5. In the result, appeal is allowed. Impugned dated 02/09/2023, passed by learned Additional Sessions Judge-5, Parbhani, in Criminal Bail Application No.670/2023, is hereby quashed and set aside.

6. Interim protection granted to appellant by order dated 28/11/2023 is confirmed.

(NITIN B. SURYAWANSHI, J.)