



drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.909 OF 2023

Nanasaheb Kashinath Galande

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. N.S.Ghanekar h/f Mr. A.N.Barhate-Patil, Adv. for appellant
Mr. A. R. Kale, APP for respondent - State
Ms. Sunita G. Sonawane, Advocate for respondent No.2
Mr. Y. H. Lagad, Advocate for respondents No.3 to 5
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 18th JANUARY, 2024

ORDER :

1. Appellant apprehends arrest in Crime No. 429 of 2023 registered with Shrirampur Taluka Police Station, District – Ahmednagar for offence punishable under section 307, 364, 342, 504, 506, 147, 148, 149, 324, 109 of the Indian Penal Code, u/s 84 and 87 of Protection of Children from Sexual Offences Act and u/s 3 (1) (a) (d) (e), 3 (1) (r) (s), 3 (2) (v-a) of the Scheduled Caste Scheduled Tribes (Prevention of Atrocities) Act.

2. FIR is lodged by Shubham Vijay Maghade alleging that at the instance of appellant and his son, informant was called from his house by co-accused Pappu Parkhe and Raju Bodkhe.

Informant was told that Yuvraj, son of appellant, had called him. Informant was thereafter forcibly taken on motorcycle to appellant's bungalow, where Yuvraj Galande, Deepak Gaikwad, Manoj Bodkhe and Durgesh Vaidya were drinking liquor. Kunal Magar, Om Gaikwad and Pranay Khandagale were assaulted by accused persons. They were tied and were made to sit on their knees. Yuvraj, Deepak, Durgesh and Manoj though were knowing that informant belongs to Scheduled Caste, they asked him to remove his clothes. It was alleged that informant has stolen their pigeon. They beat informant with wire. Yuvraj and Manoj urinated on his person. Abuses were given by taking name of his caste. Said FIR is lodged on 26th August, 2024. Anticipatory Bail Application filed by appellant is rejected by Sessions Court. Hence, this appeal.

3. Heard learned advocate for appellant, learned APP for State, learned advocate for respondent No. 2- informant and learned advocate for respondents No.3 to 5 – victims. Perused the papers of investigation.

4. Learned APP and learned advocates for informant and victims have vehemently opposed the appeal stating that the incident has taken place at the instance of appellant and he has abated commission of crime and hence he is not entitled for

anticipatory bail.

5. FIR is registered against 7 accused persons and appellant is accused No.7. Charge sheet is filed in the matter on 30th November, 2023 and case is numbered as Special Case No. 67 of 2023. Six accused persons, against whom allegations of assault and giving abuses by taking name of caste of informant are levelled, are arrested and presently they are in jail.

6. Perusal of investigation papers show that two witnesses have named appellant in their police statements and role is attributed to appellant that he told accused persons to tie informant and take proper care of him.

7. Considering the fact that charge sheet is filed in the matter, custodial detention of appellant is not necessary in the peculiar facts of the present case, as nothing is to be recovered from appellant. Appeal is, therefore, allowed by confirming interim protection granted to appellant by order dated 9th October, 2023. Impugned judgment and order passed by Sessions Court is hereby quashed and set aside.

[NITIN B. SURYAWANSHI]
JUDGE