



drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1123 OF 2023

Gajanan Devidas Pawale

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....

Mr. Avinash D. Hande, Advocate for the appellant

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

Mr. C. V. Thombre, Advocate for respondent No.2

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th JANUARY, 2024

ORDER :

1. Appellant apprehends arrest in Crime No. 155 of 2023 registered with Naigaon Police Station, District Nanded for offence punishable under sections 354, 354-D of the Indian Penal Code and under sections 3 (1) (2) (i), 3 (1) (w) (ii) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act and under section 8 and 12 of the Protection of Children from Sexual Offences Act.

2. Victim, aged 16 years, has lodged the FIR in question, in short alleging that, appellant is following her since last one year. On 13th October, 2023, when the victim was travelling in a bus,

the appellant boarded the bus, caught hold of her right hand and questioned her as to why she is not talking with him. It is alleged by the victim that the appellant then abused her in filthy language and referred to her caste.

3. Appellant claims that there is previous enmity between brother of the victim and the appellant and, therefore, with a *mala fide* intention, appellant has been falsely implicated in the present crime.

4. Anticipatory bail application filed by the appellant is rejected by the Sessions Court. Hence, the present appeal.

5. Heard learned advocate for the appellant, learned APP for the State and learned advocate for respondent No. 2 – victim. Perused the investigation papers.

6. Perusal of the statements of the eyewitness reveal that there was not exchange of words between the appellant and the victim, however, none of them has stated that the appellant had caught hold of hand of the victim. From the narration in the FIR, *prima facie*, it appears that the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are not attracted in the present case. Considering the investigation papers, custodial interrogation of the appellant is not warranted

in the peculiar facts of the present case. The appellant, therefore, deserves anticipatory bail.

7. In the result, following order -

ORDER

- A. Criminal Appeal is allowed. Impugned order dated 3rd November, 2023 passed below Exhibit-1 in Criminal Bail Application NO. 243 of 2023 by Additional Sessions Judge, Biloli is quashed.
- B. In the event of arrest of the appellant in Crime No. 155 of 2023 registered with Naigaon Police Station, District-Nanded, appellant Gajanan Devidas Pawale be released on executing PB and SB of Rs.15,000/- with one surety in the like amount.
- C. Appellant shall attend the concerned police station from 10th to 17th January, 2024 everyday between 10.00 a.m. to 12.00 noon and shall co-operate in the investigation.
- D. Appellant shall not enter the vicinity of residence of the victim and / or shall not try to contract or follow the victim.

- E. Appellant shall not enter village Gadga, Taluka – Naigaon, District – Nanded till filing of the charge sheet. Appellant is permitted to carry out agricultural operations, as his agricultural field is situated in the vicinity of the village.

[NITIN B. SURYAWANSHI]
JUDGE