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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1147 OF 2023

Krushna Raghunath Sonmali

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Shaikh Shoyab, Advocate for the appellant
Mr. S. B. Jadhav, APP for respondent - State
Ms. Pooja Ingle, Advocate for respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th JANUARY, 2024

ORDER :

1. By this appeal, filed under section 14 of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, appellant challenges order passed by learned Additional Sessions Judge, Paranda thereby rejecting anticipatory bail application No. 74 of 2023.

2. FIR is lodged by Padma Chavan alleging that on 17th February, 2023, at about 7.00 a.m., while she was at her house at village Wakadi, appellant, who is an advocate by profession, came there as he was called by her sister in law Usha. He called Usha from outside. At that time, informant was combing her hair

in the courtyard. Appellant stopped his motorcycle, came near informant and caught her right hand and asked her whether she would also like to come with him. He also made obscene gestures. Informant got her hand released by giving a jerk and asked appellant as to why he is talking in that manner with her. Appellant then told that her sister in law comes in room with him and what is problem with her. At that time, her sister in law came out of the house and when informant disclosed the incident to her, she said that why she is not listening to the appellant. Then her sister in law left along with appellant on his motorcycle. FIR is registered on 13th October, 2023 at Crime No. 240 of 2023 at Paranda Police Station for Offence punishable under sections 354-A, 107, 34 of the Indian Penal Code and u/s 3 (1) (w), 3 (1) (va) of the Atrocities Act. Anticipatory Bail Application filed by appellant is rejected by Sessions Court. Hence, the present appeal.

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

4. It is the case of appellant that being advocate he is representing sister in law of informant, and multiple civil and criminal litigations are going on between informant and her

family members with her sister in law. Appellant got partition of property, which is not liked by informant and hence he is falsely implicated in the present crime. There is 8 months' delay in lodging FIR and appellant is *mala fide* implicated in the present crime.

5. Learned advocate for informant and learned APP, on the other hand, opposed the appeal, by relying on section 18 of the Atrocities Act. They also pointed out that on 20th February, 2023 itself, informant had complained about the incident to Superintendent of Police that said complaint is not registered by Police Station Officer of Paranda Police Station.

6. Perusal of investigation papers reveals that brother of informant is no more and her sister in law – Usha is fighting litigation against informant's family. Informant is ordinary resident of Mumbai but she frequently visits village Wakadi to attend court matters.

7. There appears substance in the contention of appellant that since appellant is representing sister in law of informant in all the court proceedings, informant has grudge against him and, therefore, he is *mala fide* implicated in the present crime. There is delay of almost 8 months in registering the crime.

8. Considering the nature of allegations levelled against appellant and the fact that investigation in the present crime appears to be on the verge of completion, his custodial detention is not warranted. Since this Court is of the *prima faice* view that appellant appears to be *mala fide* implicated in the present matter, bar under section 18 of the Atrocities Act would not get attracted in the present case.

9. In the result, appeal is allowed by confirming the interim protection granted to appellant by order dated 7th December, 2023.

10. Till filing of charge sheet, appellant shall attend the concerned police station as and when called by the Investigating Officer. Appellant shall not influence prosecution witnesses. Learned advocate appointed for informant be paid fees as per schedule within four weeks.

[NITIN B. SURYAWANSHI]
JUDGE