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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1177 OF 2023

Keshav Pandurang Waghmare

APPELLANT

VERSUS

Janardhan @ Balu Balbhim Nakhate and Another RESPONDENTS

.....
Mr. Subhash S. Nade, Advocate for the appellant
Mr. A. R. Kale, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th JANUARY, 2024

ORDER :

1. By this appeal, filed under section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 appellant seeks cancellation of bail granted to respondent No.1 by learned Sessions Judge, Kaij in Miscellaneous Criminal Application (Bail) No. 136 of 2023.

2. FIR at Crime No. 351 of 2023 is lodged by appellant with Dharur Police Station for offence punishable under section 306, 504, 506, of the Indian Penal Code and under section 3 1 (r) and 3 (1) (s) of the Atrocities Act. It is alleged that son of informant – Namdeo, aged 40 years has committed suicide due to harassment by respondent No.1. It is further alleged that

Namdeo had obtained loan of Rs. 3 lakh for his daughter's marriage from respondent No.1 and though an amount of Rs.3 lakh was repaid by Namdeo, respondent No.1 was insisting that Namdeo should pay Rs.2 lakh more and was threatening to kill him if the amount is not paid. Once, respondent No.1 had come to his house and had abused Namdeo in the name of caste. On 28th September, 2023, Namdeo committed suicide because of the harassment by respondent No.1.

3. Respondent No.1, therefore, filed application seeking anticipatory bail under section 438 of the Criminal Procedure Code, which is allowed by the Sessions Court. Hence, the present appeal.

4. Heard learned advocate for appellant and learned APP for the State. Perused the documents placed on record.

5. Learned advocate for appellant vehemently urged that respondent No.1 has abetted suicide of Namdeo, since in spite of return of amount of Rs.3 lakh, respondent No.1 was insisting for additional amount of Rs.2 lakh and was giving threats to kill Namdeo if the amount is not paid, therefore, Namdeo was left with no option but to commit suicide. Hence it is urged to cancel the anticipatory bail granted to respondent No.1 by learned

Sessions Judge.

6. Perusal of the FIR and documents placed on record as well as the impugned order reveals that ingredients of abetment are lacking in the present matter. Ingredients of section 107 of the Indian Penal Code are not made out in the FIR so also provisions of the Atrocities Act are not attracted, in the facts of the present case. In that view of the matter, learned Sessions Judge was justified in allowing application and granting anticipatory bail to respondent No.1. No case is made out by appellant to warrant interference in the impugned order and cancel the anticipatory bail granted to respondent No.1.

7. The appeal being devoid of merit is dismissed. It is made clear that these observations are *prima facie* and shall not influence Trial Court while deciding the case on its own merits.

[NITIN B. SURYAWANSHI]
JUDGE