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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1194 OF 2023

Shaikh Mukhtar Shaikh Pashamiya

APPELLANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Gaurav L. Deshpande, Advocate for the appellant

Mrs. Uma Bhosale, APP for respondent - State

Ms. Pooja K. Apache, Advocate for respondent No.2 (appointed)

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th JANUARY, 2024

ORDER :

1. Leave to add Superintendent of Police as party respondent.
2. This appeal takes exception to order dated 6th November, 2023 passed by learned Additional Sessions Judge, Bhokar below Exhibit-7 in Special Case No. 35 of 2023, thereby rejecting regular bail application filed by appellant.
3. FIR is lodged by mother of victim alleging that she belongs to Scheduled Caste, on 29th July, 2023, appellant outraged modesty of the victim, who is mentally unsound. Therefore, offence punishable under sections 354, 354-A of the Indian Penal Code, under sections 8 and 1D of the Protection of Children from

Sexual Offences Act and under section 3 (1) (2) (i) (ii) and 3 (2) (va) of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, is registered with Bhokar Police Station.

4. Pursuant to the registration of offence, appellant is arrested on 31st July, 2023 and since then he is behind the bars. Appellant's first bail application was rejected by the Trial Court. Thereafter, charge sheet is filed on 3rd August, 2023. Thereafter, appellant filed second bail application, which is rejected by the Trial Court. Hence, the present appeal.

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

6. Learned advocate for respondent No.2 – informant and learned APP strenuously opposed the appeal, contending that appellant has committed heinous offence against a victim, who is mentally challenged.

7. Considering the fact that charge sheet is filed and appellant is behind the bars since last 6 months and the trial is not likely to conclude in the near future, appellant deserves to be released on bail, subject to certain conditions.

8. In the result, following order

ORDER

- A. Appeal is allowed.
- B. Impugned order dated 6th November, 2023 passed by learned Additional Sessions Judge, Bhokar below Exhibit-7 in Special Case No. 35 of 2023 is hereby quashed and set aside.
- C. Appellant be released on bail in Crime No.270 of 2023 registered with Bhokar Police Station, District – Nanded, on executing PB and SB of Rs.15,000/- with one surety in the like amount.
- D. Appellant shall not enter Bhokar Taluka, till conclusion of the trial.
- E. Appellant shall not, in any manner, try to contact and / or influence prosecution witnesses.
- F. Learned advocate appointed to represent informant – respondent No.2 be paid fees as per Schedule, within four weeks.

[NITIN B. SURYAWANSHI]
JUDGE