



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.8 OF 2024

DAYESHWAR HIRALAL PATIL ..APPELLANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Ashley Cusher for the Appellant.

Adv. Shambhu M. Jha for the Complainant/Respondent No.2.

Mr. S.H. Yadav, APP for the State.

PSI Suraj Jagtap, Naigaon Police Station.

CORAM : M. S. KARNIK, J.

DATE : MARCH 07, 2024

P.C. :

1. Heard learned counsel for the appellant, learned counsel for respondent No.2 and learned APP for the State.

2. The First Information Report (FIR) bearing C.R. No.109 of 2023 dated 24/05/2023 was lodged by the complainant/prosecutrix for the offence punishable under Sections 376, 376(2)(n), 354 and 34 of the Indian Penal Code and Sections 3(1)(r)(s), 3(1)(w-ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Atrocities Act" for short) with Naigaon Police Station.

3. The appellant is accused No.3. It is the case of the prosecutrix that she was in a relationship with accused No.1-

Sanjay who is the real brother of the present appellant for 14 to 15 years. The appellant's brother kept physical relationship with the prosecutrix on the false promise of marriage. Instead of fulfilling the said promise, accused No.1 married someone else and thereby cheated her. The allegations are made against the appellant in the supplementary statement recorded on 31/05/2023. The prosecutrix narrated that when she was returning back on 24/05/2024³ after registering the FIR, the present appellant abused her in the name of her caste. Learned counsel for respondent No.2 submitted that there are several statements of independent witnesses who support the case of the prosecutrix that she was abused by the present appellant in the name of her caste. It is also submitted that the abuses were in a public place and in a public view.

4. I have perused the FIR. The accusations are mainly against the real brother of the present appellant. Though it is alleged that the appellant abused the prosecutrix on 24/05/2023, the allegations are made against the appellant in the supplementary statement lodged on 31/05/2023 after a delay of 7 days. Witnesses no doubt appear to be

independent, however, the statements were recorded after the supplementary statement of the prosecutrix. The prosecutrix at the time of the lodging of the FIR had the support of one social organisation which was standing by her.

5. In my opinion, in such circumstances, the delay in reporting the incident qua the appellant, *prima facie*, enure to the benefit of the appellant for the limited purpose of granting him pre-arrest bail. *Prima facie*, the possibility of false implication of the appellant as a result of a broken love relationship between the prosecutrix and accused No.1 who is the real brother of the appellant can not be ruled out. Hence, I am inclined to confirm the interim order dated 11/01/2024 passed by this Court. In my opinion, the bar under Section 18 of the Atrocities Act can not be attracted in the facts and circumstances of the present case.

6. Learned counsel for the appellant, on instructions, submits that the appellant will not reside within the jurisdiction of Naigaon Police Station till the trial concludes. The statement is accepted.

7. The appeal is allowed. The interim order dated 11/01/2024 is confirmed.

8. In the event of arrest of the appellant- Dayeshwar Hiralal Patil in connection with C.R. No.109 of 2023 registered with Naigaon Police Station, the appellant shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.

9. The appellant shall cooperate with the investigation.

10. The appellant shall not threaten, contact or intimidate the complainant.

11. The appellant to abide by the statement made before this Court.

12. It is made clear that the observations made hereinabove are *prima facie* and the trial Court shall proceed with the trial on its own merits without being influenced by the said observations.

13. The appeal is disposed of.

(M. S. KARNIK, J.)