



Diksha Rane

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

CRIMINAL APPEAL NO.653/2023

XYZ

..APPELLANT

VS.

1. THE STATE OF MAHARASHTRA

2. AKSHAY BHASKAR KAMBLI

..RESPONDENTS

Adv. Prabha Badadare for the appellant.

Mr. A. R. Patil, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 18, 2024.

P.C. :

1. Heard learned counsel for the appellant and learned APP for the State.

2. My attention is invited to the First Information Report (FIR) No.117/2023 dated 5/5/2023 registered at Malvan Police Station, District - Sindhudurga for the offence punishable under Sections 376 (2)(n) of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3(1)(r), 3(1)(s), 3(1)(w), 3(2)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter 'the Atrocities Act' for short).

3. Learned counsel for the appellant submitted that the allegations in the FIR squarely make out a case against the respondent no.2 (original accused) for the alleged offence punishable under the aforesaid sections.

4. Learned APP supported the stand of the appellant.

5. I have gone through the FIR and the impugned order. *Prima facie*, from the reading of the order passed by the trial Court, it appears that the relationship between the parties was consensual in nature.

6. Learned counsel for the appellant vehemently submitted that the observations of the trial Court as regards the intention of the respondent no.1 to abuse the informant in the name of her caste being absent, is an observation, which according to learned counsel ought not to have been made at the stage of deciding the anticipatory bail application as the investigation was yet to be completed.

7. I am not inclined to interfere in the matter of grant of pre-arrest bail to the respondent no.2 (original accused) considering that the charge-sheet has now been filed and the investigation is complete. However, I find substance in the contention of learned counsel for the appellant that the

condition (c) imposed by the trial Court needs to be made more stringent in the facts and circumstances of this case.

8. There is no appearance on behalf of the respondent no.2 (original accused) though he is duly served. In this view of the matter, the condition (c) is modified and the same shall be read as follows “

“(c) The respondent no.2 (original accused) - Akshay Bhaskar Kambli is directed not to enter Mumbai/Mumbai Suburban District for a period of one year from today. Thereafter, the responded no.2 (original accused) not to enter the area of Goregaon subject to further orders of the trial Court.”

9. The appeal is partly allowed and disposed of accordingly.

(M. S. KARNIK, J.)