



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

CRIMINAL APPEAL NO. 777 OF 2023

Ganesh Dnyaneshwar Rokade

..Appellant

VS.

1. The State of Maharashtra

2. Mangesh Uttam Gholap

..Respondents

Mr. Kedar Patil a/w Ms. Gargi Joshi, Mr. Jitesh Mundhwa, Ms. Sakshi Kadam, Mr. Pratik Tare, for the Appellant.

Mr. Veerdhawal Deshmukh, for Respondent No.2.

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

CORAM : M. S. KARNIK, J.

DATE : JANUARY 30, 2024

ORAL JUDGMENT :

1. Heard learned counsel for the appellant. Learned APP and learned counsel for the respondent no.2 opposed the appeal.

2. This is an appeal for quashing and setting aside the impugned order dated 27/06/2023 rejecting the anticipatory bail application of the appellant passed by the trial Court in connection with C.R. No. 231 of 2023 registered with Rajgad police station, Pune Rural for the offences punishable under sections 420, 467, 468, 452, 364-A, 324, 323, 504, 506 read with 34 of the Indian Penal Code, 1860, under sections 3(1)

(r), 3(1)(s), & 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Atrocities Act"), under sections 39 & 45 of the Maharashtra Money Lending (Regulation) Act, 2014 and under sections 3 and 25 of the Arms Act. The date of the FIR is 28/05/2023.

3. On 14/07/2023, this Court while granting interim protection to the appellant had passed the following order, the relevant portion of which reads thus:

"2. By this appeal, preferred under section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SCST Act') the appellant seeks pre-arrest bail in connection with C.R. No. 231 of 2023 registered with the Rajgad Police Station, for the alleged offences punishable under sections 420, 467, 468, 452, 364-A, 324, 323, 504, 506 r/w. 34 of Indian Penal Code; and Sections 3(1)(r), 3(1)(s), 3(2)(va) of the SCST Act; Section 39 and 45 of Maharashtra Money Lending (Regulation) Act, 2014; and Section 3 and 25 of the Arms Act.

3. Learned counsel for the appellant submits that admittedly there are no allegations either of assault or of kidnapping for ransom, against the appellant, with respect to the alleged incident dated 20th November 2019. He submits that the said allegations are as against Sushil Rokade, the appellant's brother and not against the appellant. He further submits that as far as Sushil Rokade is concerned, he is arrested and he is in custody presently. He further submits that all documents have also been seized by the police, from Sushil. He submits that the appellant has been falsely implicated in the said case, only because he is the

brother of Sushil, with whom respondent no. 2 had financial transactions.

4. He submits as far as allegations under the SCST Act are concerned, no allegations have been made as against the appellant i.e. the appellant used any abusive words/language with respect to respondent no. 2's caste.

5. Issue notice to respondents returnable on 1 August 2023. Learned APP waives notice and seeks time to take instructions. In addition to Court notice, appellant to serve the respondent No.2, by private notice and file affidavit of service before the next date.

6. Learned APP also assures to inform the respondent No.2 through the concerned Officer of the concerned police station of the returnable date.

7. Having heard learned counsel for the appellant, the appellant has prima facie case made out a for grant of interim protection. As far as allegations under section SCST Act are concerned, prima facie the said allegations are not attributed to the appellant, and hence the bar under the SCST Act will not apply. Accordingly, in the meantime, till the next date, the appellant is granted interim protection from arrest, on the following terms and conditions."

4. I have heard learned APP and learned counsel appointed to represent the respondent no.2. Learned APP and learned counsel for the respondent no.2 opposed the appeal and submitted that the offence is serious and the bar under section 18 of the Atrocities Act is attracted in the present case. It is further submitted that the appellant is actively involved in the commission of the offences and he has been specifically named in FIR. It is therefore submitted

that the appeal be dismissed and the order passed by the trial Court may be confirmed.

5. I have carefully perused the allegations made by the complainant. So far as the allegations under the Atrocities Act are concerned, prima facie it appears that the said allegations are not attributed to the appellant and hence, the bar under section 18 of the Atrocities Act will not apply. There are no allegations either of assault or of kidnapping for ransom against the present appellant with respect to the incident dated 20/11/2019. The allegations are mainly against Sushil Rokade who is the real brother of the appellant. Sushil Rokade is arrested and he is in custody presently. All documents have been seized by the police from Sushil. It is the contention of the learned counsel for the appellant that the appellant is falsely implicated only because he happens to be the brother of the main accused- Sushil Rokade with whom the complainant- respondent no.2 has financial transactions.

6. Learned APP submitted on instructions of the investigating officer that the charge-sheet has already been filed. In this view of the matter, in my opinion, the interim

protection can be confirmed and accordingly it is confirmed.

Hence, the following order :-

ORDER

- (a) The appeal is allowed.
- (b) The impugned order dated 27/06/2023 passed by the trial Court is quashed and set aside.
- (c) In the event of arrest in connection with C.R.No. 231 of 2023 registered with Rajgad police station, Pune Rural, the appellant-Ganesh Dnyaneshwar Rokade shall be enlarged on bail on his furnishing P.R. bond in the sum of Rs.20,000/-with one or two sureties of the like amount.
- (d) The appellant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- (e)The appellant shall attend the trial regularly.

6. I appreciate the valuable assistance rendered by Mr. Veerdhawal Deshmukh, the learned Advocate, who appeared on behalf of respondent No.2 at my request in this proceeding and assisted the Court. His engagement be regularized by the Legal Services Authority.

7. The appeal is disposed of.

(M. S. KARNIK, J.)