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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1248 OF 2022**

RAJESH BHAGWAN BOBADE

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ORS.

..RESPONDENTS

Adv. Vikrant Shinde for the appellant.

Ms. S. D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 15, 2024

P.C. :

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

2. The complaint was lodged against the respondent Nos.2 and 3 who are the original accused Nos.1 and 2 and five other accused with Wai Police Station as FIR bearing C.R. No.153 of 2018 on 02.06.2018 for the offence punishable under Sections 120B, 302, 427 read with 34 of the Indian Penal Code, 1860 and under Sections 3(2)(5), 3(2)(va)(6) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act ("Atrocities Act" for short). The application for bail was filed by all the seven

accused before the trial Court. Respondent Nos.2 and 3 were arrested in the month of June 2018. By the impugned order dated 21.10.2022 the applications of the present respondent Nos.2 and 3 i.e. the original accused Nos.1 and 2 came to be allowed.

3. I am informed that the trial has commenced and more than 15 to 16 witnesses have been examined. The trial was already expedited by this Court. 10 to 15 witnesses remain to be examined. Apart from challenging the impugned order on merits, it is submitted that when the accused No.1 attended the date of hearing, there were more than 100 people who were accompanying him and all this was done with a view to pressurise the complainant.

4. Respondent Nos.2 and 3 were in custody for almost four years and six months. During the period from 21.10.2022 till this date, there is nothing on record to indicate that respondent Nos.2 and 3 have threatened the complainant. As the trial is progressing, in these facts and circumstances I am not inclined to interfere with the impugned order. It is made clear that in the above

circumstances I have refrained from considering the submissions of learned counsel for the appellant on merits.

5. If it is the grievance of the appellant that the complainant or any of the witnesses are being pressurised, it is always open for the appellant to apply for witness protection before the learned trial Court. If the situation warrants, the local police will undoubtedly take necessary steps for ensuring that the complainant is able to attend the Court without him being under a conception of threat. If the application is made to the trial Court or competent authority for witness protection, the same shall be decided in accordance with law.

6. The Criminal Appeal is rejected.

(M. S. KARNIK, J.)