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criapl200.25

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.200 OF 2025

MOHD. AMERUDDIN QHATIB
VS
THE STATE OF MAHARASHTRA AND OTHERS
WITH
CRIMINAL APPEAL NO. 205 OF 2025

XYZ
VS
THE STATE OF MAHARASHTRA AND OTHERS

Mrs. Rashmi Kulkarni, Advocate a/w Smt. N. P. Thole, Advocate for the appellant in Apl/205/25 and respondent No. in Apl/200/25

Mr. Chaitali Choudhari-Kutti, APP for the respondents/State

Mr. S. J. Salunke, Advocate for the appellant in Apl/200/25 and respondent No.3 to 9 in apl/205/25

CORAM : KISHORE C. SANT, J.

RESERVED ON : 08th JULY, 2025

PRONOUNCED ON : 18th AUGUST, 2025

P. C.

1. Both the appeals are arising out of the same offence and therefore, both are taken up together for final disposal. The Criminal Appeal No. 200/2025 is by the original accused No 1 seeking his release on bail in the event of his arrest in

connection with crime No. 27/2025 dated 18-01-2025 registered with City Chowk Police Station, Dist. Chhatrapati Sambhajanagar for the offences punishable under Sections 85, 117(2), 318(4), 352, 351(2), 3(5) of the BNS and Sections 3(1)(r), 3(1)(s), 3(1)(u), 3(1)(w)(i), 3(1)(z) & 3(2)(va) of the SC & ST (Prevention of Atrocities) Act. The Criminal Appeal No.205/2025 is by the informant challenging the order dated 28-02-2025 passed by the Special Judge SC & ST (POA) in Criminal Bail Application No. 259/2025 granting bail to accused Nos. 2 to 8 i.e. present respondent Nos. 3 to 9 in Apl/205/25 in the above offence.

2. The facts giving rise to the present appeals are as below.

3. The informant who happens to be from 'Tadvi' community (Scheduled Tribe) was firstly married with one Mohammad Iftekhar Khan in 2015. She begotten one child namely Mohd. Atib Khan from the said wedlock. She took

divorce from her first husband. As she was a divorcee, one person namely Naim Sultana brought a proposal for marriage with Ameruddin Qhatib-accused No.1. It was told that he is having good business in Dubai. His parents are residing at Chhatrapati Sambhajanagar. Family is having landed property. He also assured that accused No.1 would take care of her son. In view of personal meeting with the relatives of the accused No.1, they refused to take care of the child. The informant therefore, did not initially accept the proposal. The accused No.1 however, made up her mind assuming that he would take care even of a son, she married on 16-04-2023.

4. It is the case of the informant that the marriage was performed. Accused No.1 took some amount from parents of the informant under the pretext that he cannot bring more amount from Dubai because of some restrictions. In the marriage some amount and gold ornaments were also given. After marriage the couple went to Dubai. There husband told that he lost his job and he is in search of a new job. He, therefore, requested the

informant to search for a job. She searched a job in one bank for herself. Later on, he took banking password of her account and started operating bank account of the informant. He did not allow the son of the informant be taken to Dubai. On 07-11-2023, in hurried manner they left for India. When she came to Airport she was informed that her clearance got failed as she had not resigned a job. The husband however, went to Bangalore by leaving her at the Airport at Dubai. Later on she managed to come to India and went to Bangalore. In Bangalore he again forced her to do a job for income. Thereafter, on 17-12-2023, they went to the house of the Ismat Mansoor Khan-accused No. 8 at Mumbai. There, the informant met her parents and son. Thereafter, the husband took her to Delhi on 23-12-2023 at house accused No. 7- Anis Fatema and Ubed Khan-accused No.8. It found that after every 15-16 days accused No.1 changing the cities. In March, 2024 husband with her, accused brother Mohammad ZiaUddin Qhatib accused No.5 went to Bangalore from Pune. In Bangalore, the husband got loan of Rs.7 lakhs in the name of informant. He also used to take

amount from her salary account. It is further alleged that thereafter couple came to Aurangabad. There, he again took some amount from parents of the informant. During this period, it is alleged that the husband was having unnatural sex with the informant. It is further alleged that parents of the husband and other relatives were having pride of their higher caste. The husband always used to look her down. In the house she was called in the name of her caste insulting her. The relatives of the husband did not allow her to clothes to be washed with their clothes. She was allowed to use only one room in the house and was not allowed to use other rooms. They did not allow her to meet any other relatives. On such allegations she lodged the FIR on 18-01-2025.

5. The accused persons approached the learned Sessions Court seeking bail in the event of their arrest. The learned Special Judge by order dated 28-08-2025 granted bail to the accused Nos. 2 to 8. However, refused the bail to the extent of husband-present appellant. Thus, the appellant has

approached this court. The informant has filed an appeal No. 205/2025 for cancellation of bail of accused Nos. 2 to 8.

6. Mr. Salunke, Advocate for the appellant vehemently argued that the learned trial Judge failed to appreciate that there are no allegations making out a case under the Atrocities Act. The allegations are vague. If the appellant had any intention because of the caste of the informant, he would not have married her and taken her in his family. Getting married with the informant itself shows that there is no question of abusing or insulting the informant in the name of caste. He, thus, submits that a case is clearly made out for grant of bail in the event of his arrest.

7. About cancellation of bail of accused Nos. 2 to 8 he submits that FIR itself shows that husband and informant were residing in Dubai. Thereafter, they went to Bangalore for some period. She may have stayed with parents and in-laws. No any specific instances are quoted against any of the accused persons

specially accused Nos. 2 to 8. The learned trial court has rightly passed the order granting bail to accused Nos.2 to 8.

8. Mrs. Rashmi Kulkarni, learned advocate for the respondent vehemently opposed the appeal for bail. In support of her case, she argued that this is a clear case showing that the informant was always humiliated and insulated in the name of her caste. All the in-laws did not even allow her to share a common room and asked her to confine to only one room given to her. This itself shows that humiliating and insulting treatment given to the informant. The husband initially showed her rosy picture of the family. It is only after the marriage, he started showing true colors. She was taken to Dubai under the pretext that the husband is having a good family business. It is only after going to Dubai, she realized that he is not having any business and does not have even a job in Dubai. He lived on the income of the informant. She herself was working as a Divisional Manager. She was exploited financially as well. Though she happens to be a member of the family, she was

given a different treatment. All the allegations clearly makes out a case against the appellant and still the learned court failed to appreciate this aspect. She therefore, submits that even the bail granted to the accused Nos. 2 to 8 deserve to be cancelled. So far as refusal of the bail to accused No.1, she submits that the learned court has rightly refused the bail.

9. The learned APP has produced on record the papers of investigation. She opposes the Appeal No. 200/2025 submitting that no case is made out for release on bail. The learned APP supports the Appeal No. 205/2025 submitting that a case is made out to cancel the bail.

10. This court has heard the parties. The allegations of the wife-informant are that respondents-husband and relatives of the husband happens to be person belonging to open category having caste as 'Qhatib'. In the information she has stated that she belongs to scheduled tribe and her brother is having a certificate of scheduled tribe. The allegations appear that the

informant was suddenly taken to Dubai by the husband. Some photographs showing that all accused are residing together. There are allegations of financial exploitation. The informant was not allowed to come in the house amounting to an offence section 3(2)(va) & 3(1)(w)(i) of the Atrocities Act. It is further case of the informant that after the accused persons are released on bail they started threatening the informant. They have also violated the bail conditions. It is, for this, bail deserves to be cancelled.

11. This court has gone through the FIR and material which is placed on record. It appears that material allegations are against accused No.1. Though it is argued there are overwhelming circumstances to cancel the bail, this court finds that no such case is made out. Accused No.6-Aleena is Dentist & accused No.8-Ubed is a Veterinary Doctor & accused No.9-Ismat is also a Doctor. Relatives are residing at different places. In case of breach of conditions the informant has to approach the same court where the bail was granted. It is further seen that now the

charge-sheet is submitted. The wife herself is an educated person who worked in Dubai and Bangalore. Merely because of some utterance in the name of caste alleged against accused No. 1 will not be sufficient to attract the provision of Atrocities Act. This court has seen the photographs. In the photographs the couple is seen at various places in a good mood. However, that itself is not sufficient at this stage to come to any conclusion as those are the photographs prior to dispute.

12. So far as other material is concerned, the police paper shows that there are statements of brother, father & mother of the informant stating about the treatment given to informant. There is also a medical certificate showing that there is sexual violence. There are signs of violence on the informant. It shows biting marks, pinching marks, violent shaking, kicking, pulling hairs, banging head and and dragging. It is also observed that signs of unnatural sex are found. Penetration is found in anas and mouth. It is thus, seen that there is certainly some material to show sexual violence. The statements of the relatives

of the informant though are hearsay, however are consistent. There are other offences. The proceeding started under the DV Act by the informant. There are certain documents showing that amount from the account of the informant is withdrawn by accused No.1. It is tried to show that husband is also earning person having amount in the account. For some difficulty he could not withdraw the amount as it was blocked. Ultimately what is seen, is that the informant was exploited even financially. The husband has filed affidavit stating that he is obeying the conditions. He has surrendered passport etc.

13. Mr. Salunke, learned advocate relied upon two judgments in the case of Hitesh Verma Vs State of Uttarakhand¹ and Sidharam Satlingappa Mhetre Vs State of Maharashtra and others². In the case of Hitesh (supra) the allegations were that there was an abuse in the name of caste. In that case there was property dispute between accused and the informant. The court in that view observed that merely because a person happens to

1 AIR 2020 SC 5584

2 (2011) 1 SCC 694

be persons from the scheduled caste, that itself is not sufficient to show that case falls under the Atrocities Act. In the case of Siddharam (supra) the Hon'ble Apex court has considered the provision of anticipatory bail, right of the victim personal liberty etc.

14. In the present case after going through the material this court finds that certainly there are allegations against the husband showing that he exploited the wife physically economically and sexually. So far as other relatives are concerned, the allegations would not show that case would fall under the Atrocities Act. Therefore, this court finds that the learned Sessions Judge has rightly rejected the application of the accused No. 1-husband and has rightly granted the bail to accused Nos. 2 to 8. No case is made out calling for interference in the impugned order. Both the criminal appeals, therefore, stand dismissed.

[KISHORE C. SANT, J.]

Later On:

1. At this stage, Mr. Salunke, learned advocate for the appellant prays for continuation of interim relief which is in operation.
2. The learned advocate for the respondent heavily objected for continuation of interim relief.
3. Considering that interim relief is running since 24-03-2025 in Cri. Appeal No.200/2025, same is continued for four weeks from today.

[KISHORE C. SANT, J.]

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