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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 CRIMINAL APPEAL NO. 208 OF 2025

RUSHIKESH SHANKAR WARPE

....Appellant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondent

Mr. R. B. Ade, Advocate for the appellant

Mrs. Pooja Ingale, Advocate for the respondent No. 2
(appointed)

Mr. A. B. Jadhav, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 07th AUGUST, 2025

P. C.

1. Heard the parties.

2. The appellant has approached this court challenging the order passed by the learned Sessions Judge, Jalna dated 18-03-2025 refusing to grant bail in the event of his arrest. The appellant is charged for the offences punishable under Sections 64(1), 64 (2) (m), 351(2), 351(3), 352 of the BNS and sections 3(1)(w)(i), 3(1) (w) (ii), 3(2) (va) of the Scheduled

Caste and Scheduled Tribe (Prevention of Atrocities) Act.

3. Respondent No. 2 lodged the FIR in the Bhokardan Police Station, Dist. Jalna bearing crime No. 108/2025 dated 01-03-2025. It is alleged that accused appellant came in her contact. Thereafter he started meeting frequently. Thereafter, they fell in love. Under the pretext of marriage, the appellant started taking her to some places and maintained physical relation with her. He had taken her even to his home on 20-12-2024. There also he had physical relation. Later on, he started keeping distance from her saying that he cannot marry with the informant as she belongs to different caste.

4. On these allegations the police registered the complaint.

5. The appellant apprehending his arrest approached this learned Sessions Court by filing criminal bail application. Said application came to be rejected by order dated 18-03-2025.

The appellant has thus, approached this court.

6. The learned advocate for the appellant vehemently argued that there are no abuses given in the name of caste and thus, no case is made out under the Atrocities Act. He was genuinely in love with the informant. It is for some reasons, he could not marry her that itself cannot be said to be an offence. He further submits that during the pendency of this appeal, the parties were referred to mediation. In mediation she assaulted the appellant in the office of mediation and therefore, he was required to file NC in the Pundalik Nagar Police Station on 07-07-2025. He further submits that all these things would show that no offence is committed. Custody of the appellant would not be required.

7. The learned APP from the police papers points out that there are four independent witnesses who have stated about the relationship between the appellant and respondent. He submits that from day one the appellant was knowing that

the informant and he belong to different caste and he would not be in a position to marry her, still he kept the relations with the informant under the false pretext of marriage. He relies upon the judgment in the case of Biswajyoti Chatterjee Vs State of West Bengal and Anr¹ and Prithviranjan vs State Rep by the Inspector of Police and another² The learned APP also points out the statement recorded under Section 183 of Cr. P. C. before the learned Magistrate.

8. The learned advocate for the informant vehemently opposed the appeal. She submits that in the FIR it is clearly stated that since inception the accused was knowing that he would not be in a position to marry with the informant because of caste. Still he kept the relation and assured her that he would manage to get consent by his parents. This clearly shows that he had no intention to marry.

9. This court has gone through the FIR and police

1 2025 AIR (SC) 1925

2 2025 SCC Online SC 696

papers. It is seen that since inception the accused was knowing that he may not be in position to get consent from his parents for marriage though he kept relation. He also promised the informant that he would marry her. However, he never married her and thus the informant is required to file complaint.

10. So far as judgment in the case of Biswajyoti Chatterjee (supra) it is stated that the accused has promised to marry the complainant on that assurance the complainant kept relation with the accused. After she took divorce from earlier husband, the accused started maintaining distance from her and also stopped contacting. The court considered in that case that there is no prima facie evidence existed of dishonest inducement or threat constituting offence under section 417 & 506 of the IPC. There was contradiction in the statement of the complainant in the FIR and statement under Section 164 of Cr. P. C. It was held that where a woman voluntarily enters into a prolonged physical relationship with full knowledge of man's marital status and circumstances, a subsequent denial of

marriage could not constitute rape under false promise to marry, unless there was proof that such a promise was made in bad faith. In the present case this court has already observed that since inception the accused was aware that he may not be in a position to marry the respondent for want of consent from his parents. Thus, on the facts the judgment in the case of Biswajyoti Chatterjee (supra) is not applicable. The case of Prithviranjan (supra) is also not applicable on the facts of the case.

11. Considering all above, this court is not inclined to allow the appeal. The criminal appeal, therefore, stands dismissed.

12. Respondent No.2 is appointed through the Legal Aid. Her fees be quantified to Rs.5000/- to be paid by the High Court Legal Aid Service Sub-Committee.

[KISHORE C. SANT, J.]