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

25 CRIMINAL APPEAL NO. 386 OF 2025

NIKHIL ANIL BORADE

....Appellant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. C. C. Deshpande, Advocate for the appellant

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

Mr. Pratik P. Waghmare, Advocate for the respondent No.2

CORAM : KISHORE C. SANT, J.

DATE : 26th JUNE, 2025

P. C.

1. Heard the parties.

2. The appellant has approached this court seeking bail in the event of his arrest in connection with Crime No.0123/2025, registered with Kranti Chowk Police Station, Dist. Aurangabad for the offences punishable under Sections 64(2)(m), 351(2) of Bhartiya Nyaya Sanhita, 20213 and under Sections 3(2), 3(v), 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r) and 3(1)(s)

of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

3. In the FIR, the informant alleged that she was knowing the present appellant since prior to her marriage. She got married on 05-01-2025. On 30-04-2025, she went for examination to the college. However, before examination started, the appellant called her on phone and forced her to accompany him saying that he will show the photograph prior to her marriage to her husband. Because of this, she went with him to Shirdi on motorcycle. It is further alleged that in Shirdi for three days they stayed in a lodge where on 3-4 occasions the appellant forcefully kept physical relations with her. On coming back to Aurangabad she came to know that a missing complaint is filed by her in-laws in the police station. She therefore, went to the police station and from there, because of fear, she went to her mother and thereafter lodged the complaint on 10-05-2025. On the information the police registered the crime. The present appellant approached the Sessions Court seeking bail in the

event of his arrest. The learned Special Judge (SC ST Act), Aurangabad passed the order below Exh.1 in Criminal Bail Application No. 1066/2025 dated 22-05-2025 and rejected the bail application stating that no anticipatory bail can be granted in view of section 18-A of the SC & ST (Prevention of Atrocities) Act.

4. The learned advocate for the appellant vehemently argued that in fact the informant stayed at Shirdi for 2-3 days in the lodge shows that it was consensual relations. At no point of time, she raised any shout. It is the case that the appellant and the informant was in relationship prior to her marriage. Because she was married against her wishes, she on her own had accompanied the appellant. In the complaint there is nothing to indicate that the appellant has used any force. He submits that no offence is thus made out under any of the sections under the BNS. In view of the same, no case is made out even under the Atrocities Act. There is no word used by the appellant to insult or humiliate the informant. No ingredients under sections 3(1)

(r) and 3(1)(s) are attracted. Even no case is made out under section 3(1)(w)(i).

5. The learned advocate for the informant vehemently opposed the appeal. He submits that looking to the FIR, itself it is clear that the informant had gone the college for attending the examination. From there, she was taken by the appellant at Shirdi under threat of showing photographs to her husband. This clearly shows that she was blackmailed. The offence is, therefore, made out.

6. The learned APP has produced on record the papers. The informant has given one more statement before the police, where she herself stated that she was married against her wishes and therefore, she was annoyed against her own parents. She herself went with the appellant at Shirdi and stayed there. She had even switched off her mobile phone to avoid contact. It is, thereafter, she realized the mistake committed by her and went to her mother.

7. Considering the fact that for 2-3 days she never raised any shout, there is nothing to indicate that she was prevented from contacting any one. The story of the appellant appears to be probable that the informant on her accord went with him at Shirdi and stayed there voluntarily. The learned Sessions Judge failed to appreciate that taking the FIR as it is, there is a doubt about allegations as to whether offences has taken place or not and has passed an order.

8. Considering above, this court finds that prima-facie no offence is made out against the appellant. The appellant is therefor, deserves bail in the event of his arrest. Considering above, following order:

ORDER

a] The criminal appeal stands allowed.

b] The impugned order dated 22-05-2025 passed below Exh.1 in Criminal Bail Application

No.1066/2025 by the learned Special Judge, Aurangabad is quashed and set aside.

c] The appellant be released on bail in the event of his arrest in connection with Crime No.0123/2025, registered with Kranti Chowk Police Station, Dist. Aurangabad for the offences punishable under Sections 64(2)(m), 351(2) of Bhartiya Nyaya Sanhita, 20213 and under Sections 3(2), 3(v), 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r) and 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, on furnishing PR bond in the sum of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one solvent surety in the like amount, on following conditions:

i] The appellant shall not contact the informant and her relatives.

ii] The appellant shall attend the police station as and when called by the Investigating

Officer.

iii] The appellant shall give the details of residential address and mobile number, to the concerned Investigating Officer.

d] The advocate for the respondent No.2 is appointed by this court. This court appreciates his efforts. His fees be paid as per rules by the Legal Aid.

[KISHORE C. SANT, J.]

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