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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO.734 OF 2024

Sumit s/o Diliprao Dive,
Age : 28 Years, Occupation : Business,
R/o Rahatgaon, Amravati,
Taluka and District : Amravati. **..... APPELLANT**

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station, Gadge Nagar Amravati.
2. XYZ,
Victim in Crime No.955/2024,
Registered with Police Station
Gadge Nagar, District Amravati. **.... RESPONDENTS**

Mr. S. B. Gandhe, Counsel for the appellant.
Mr. Anant Ghogre, APP for the respondent No.1 /State.
Ms. S. K. Phaltankar, appointed Counsel for the respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25.04.2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. By preferring this appeal, the appellant has challenged
the order passed by the learned Additional Sessions Judge,
Amravati in Anticipatory Bail Application (ABA) No.1119/2024 below

(2)

Exh.1 dated 03/12/2024, rejecting the application of the present appellant for grant of anticipatory bail.

4. Apprehending the arrest at the hands of the police in connection with Crime No.955/2024 registered with Police Station Gadge Nagar, District Amravati for the offences punishable under Sections 78, 351(2), 352 of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act of 1989'), the appellant approached this Court for grant of pre-arrest bail.

5. As per the prosecution case, the first information report was lodged by the victim on an allegation that she got acquaintance with the present appellant and he has subjected her for the forceful sexual assault on the promise of marriage. On the basis of the said report, police have registered the crime against the present appellant. The present appellant approached to the learned Special Court, Amravati for grant of bail in the event of arrest, but the same was rejected by the learned Special Court and hence this appeal.

6. Heard learned Counsel for the appellant, who submitted that there was a love affair between the victim and the present appellant and they have decided to perform the marriage however, subsequently, the respondent No.2 denied to perform the marriage, therefore the present appellant has consumed the poison and

(3)

attempted to commit suicide. He was admitted in the hospital and subsequent to that this false FIR came to be lodged against the present appellant alleging that he has abused them. He invited my attention towards the various WhatsApp chats and photographs and submitted that from which it reveals that there was a love affair between them but as some dispute arose between them and therefore, this false FIR is lodged. As far as the custodial interrogation is concerned, which is not required. The bar under Section 18-A of the Act of 1989 will also not attract, and therefore the interim protection granted to the present appellant deserves to be confirmed.

7. Learned APP and learned appointed Counsel for the respondent No.2 strongly opposed for the same on the ground that victim was subjected for the forceful sexual assault by the present appellant and in view of bar under Section 18-A of the Act of 1989, the appeal deserves to be dismissed.

8. On hearing both sides and on perusal of the recitals of the FIR as well as the printouts of the WhatsApp concerned photographs, it reveals that there was a love affair between the victim and the present appellant, but due to the dispute arose between them the marriage was not performed. The appellant has attempted to commit suicide by consuming the poison and thereafter this FIR is came to be lodged. As far as the allegations

(4)

are concerned, which is only to the extent of the abuses. The bar under Section 18-A will not attract, and therefore, the interim protection granted to the present appellant deserves to be confirmed. Accordingly, I proceed to pass following order:

ORDER

(i) The appeal is allowed.

(ii) The impugned order dated 03/12/2024 passed by the learned Special Judge and Additional Sessions Judge, Amravati in Anticipatory Bail Application (ABA) No.1119/2024 below Exh.1 is hereby quashed and aside.

(iii) In the event of arrest in connection with Crime No.955/2024 registered with Police Station Gadge Nagar, District Amravati for the offences punishable under Sections 78, 351(2), 352 of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant **Sumit s/o Diliprao Dive** shall be released on anticipatory bail, on executing PR bond of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

9. The fees of the appointed Counsel be quantified as per rules.

10. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)