



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

924 CRIMINAL APPEAL NO. 638 OF 2026

Santosh Hanumant Dhage Appellant

VERSUS

The State of Maharashtra & another Respondents

Mr. R. R. Karpe, Advocate for Appellant

Ms. P. J. Bharad, APP for the State.

Mr. L. K. Pradhan, Advocate for Respondent No. 2.

Ms. Smita Kasture, Advocate (appointed) for Respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 16th SEPTEMBER, 2026.

PER COURT :

1. Appellant seeks regular bail in connection with Crime No. 529/2026 registered with Shrigonda Police Station, District Ahilyanagar, for the offences punishable under Sections 64, 115(2), 351(2) of Bharatiya Nyaya Sanhita and Sections 3(2)(va), 3(1)(w)(i), 3(1)(w)(ii), 3(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. First Information Report indicates that the incident had occurred on 03.05.2026 at about 4.30 pm, when the present Appellant forcibly committed sexual intercourse with the

informant/victim. He also threatened her to kill her husband and children if she does not withdraw the previously instituted case by her against him.

3. Learned Counsel for Appellant has drawn attention of the Court to the earlier First Information Report in Crime No. 699/2025 and order passed by the Special Court granting pre-arrest bail to the Appellant. He referred to the observations by the Special Court in paragraph No. 10 of the order. It is his submission that having regard to the said fact and also in view of the allegations in the First Information Report, which according to him, are not supported by medical evidence, this is a fit case for enlargement of Appellant on bail.

4. Learned APP and learned Counsel for the informant opposed grant of any relief to the Appellant. It is their contention that victim is the member of Scheduled Caste community and having regard to the nature of allegations against the Appellant, he is not entitled for any relief. To support this submission, reference is made to medical record indicating causing of abrasion to the neck of the informant/victim. It is their contention that this is sufficient

evidence to support the allegations against the Appellant in the First Information Report. Learned Counsel for informant has placed reliance on judgment of Hon'ble Supreme Court in case of X vs. The State of Uttar Pradesh and others, **2026(1) ACR 637**.

5. There is no dispute about the fact that on previous occasion informant had made allegation against the Appellant of he committing rape on her. The Special Judge, in connection with Crime No. 699/2025, in paragraph No. 10 of the order has made following observations :-

“10. It appears that the complainant is married woman. She had physical relation with the applicant from January – 2025. She had indulged in the physical relations without disclosing the said facts either her husband or to the police though she was having opportunities till she found by her husband when the applicant had made phone call. It appears that the applicant has not sexually exploited the complainant merely because she belonged to Scheduled Caste. Therefore, in my view, prima facie ingredients of the offence under the SC and ST Act are not made out. Therefore, in my view there is no bar to entertain the application for anticipatory bail. Since the chargesheet is submitted and the applicant is ready to co-operate further investigation as noticed above, custodial interrogation of the applicant is not warranted.”

6. In the light of these facts, allegations in the First Information Report are required to be considered. If allegations in the First Information Report are accepted and the manner in which the victim is said to have ravished by the Appellant, it becomes difficult to accept that no injury except abrasion on neck was caused on her person. The causing of injuries on the other part of body of informant/victim is expected to be caused, having regard to the place and manner in which alleged sexual intercourse has been done. No such injuries/abrasions are found on person of victim. even abrasion was caused on her person. This becomes relevant in view of the fact that this could be a case of possible consensual relationship between two adult persons.

7. Insofar as judgment in case of X (supra) wherein minor girl was gang raped, this Court finds that said judgment has no application to the present case for complete different facts in both the cases. It is settled position of law that accused cannot be kept in jail by way of pre-trial sentence. Once possibility of consensual relationship exists, there is no reason/justification for rejecting bail application. Hence, the following order :-

ORDER

(i) Appellant be released on bail on furnishing PR bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount, in connection with Crime No. 529/2026 registered with Shrigonda Police Station, District Ahilyanagar, for the offences punishable under Sections 64, 115(2), 351(2) of Bharatiya Nyaya Sanhita and Sections 3(2)(va), 3(1)(w) (i), 3(1)(w)(ii), 3(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

(ii) He shall attend the concerned police station as and when called.

(iii) He shall not contact the witnesses/victim directly or indirectly.

(iv) He shall not interfere with the evidence in any manner whatsoever.

(v) He is further directed to cooperate the investigating agency for further investigation.

(vi) Learned APP to communicate this order to the concerned Investigating Officer.

7. Fees of the appointed Counsel is quantified at Rs. 10,000/-.

(R. M. JOSHI, J.)