

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

CRIMINAL APPLICATION NO. 3898 OF 2016

Dnyaneshwar s/o. Balasaheb Pakhare .. Applicant
Age. 22 years, Occ. Service,
R/o. Dadegaon (New), Post Chagatpuri,
Tq. Paithan, Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr.A.T. Jadhavar, Advocate for the applicant.
Mr.S.J. Salgare, APP for respondent/State.

**CORAM : A.M. BADAR,J.
DATED : 20.10.2016**

P.C. :-

1. The applicant/accused in Crime No.234 of 2016 registered with Paithan Police Station, Dist. Aurangabad for offences punishable under sections 376, 417, 504, 506 of the Indian Penal Code and u/s 3(1)(v), 3 (i) (xi), 3 (1) (xii) and 3 (2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, by this application is seeking his release on bail, in the event of his arrest in the said crime.

2. Heard learned Counsel for the applicant/accused. He argued that in the F.I.R. lodged by the prosecutrix, the fact that she is a married woman is conveniently

suppressed by her. Learned Counsel for the applicant sought leave to produce marriage certificate of the prosecutrix on record. Leave granted. Learned Counsel further argued that a child was born out of this wed-lock and the applicant was in no way concerned with the pregnancy of the prosecutrix.

3. Learned A.P.P. opposed the application by contending that in such case of sexual offence, version of the prosecutrix will have to be believed and she has categorically stated that because of rape by the applicant, she became pregnant.

4. Perused papers of investigation as well as certificate placed on record by the applicant. The Dy. Sarpanch of the village has certified that the prosecutrix married one Tatyaba Bhosale on 13.02.2015. Statements of witnesses recorded by the investigator also show that the prosecutrix is a married woman. In this context suppression of this fact in the F.I.R. by the prosecutrix assumes importance. The prosecutrix has stated that only because of sexual relations with the applicant, she became pregnant. The prosecutrix, as seen from papers of investigation is aged about 19-20 years. The F.I.R. itself indicates the case of consensual sex if the same is believed as it is.

5. It is seen that pursuant to order passed by this Court, there was DNA test and in that test, it is reported that the applicant is excluded to be a biological father of the child delivered by the prosecutrix. Perusal of papers of investigation prima facie does not reflect any offence punishable under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

6. With this material, I see no reason not to confirm the interim order passed by this Court way back on 01.08.2016. Therefore, the order :-

O R D E R

i. The application is allowed.

ii. The interim order dated 01.08.2016 granting ad-interim anticipatory bail to the applicant is confirmed on same terms and conditions.

iii. In addition, as a condition of this order, the applicant shall not extend any threat, inducement or promise to the persons

acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police to the Court.

iv. The applicant shall not tamper the evidence of the prosecution.

v. The applicant shall attend the concerned police station as and when reasonably called for the purpose of investigation and co-operate the investigator.

[A.M. BADAR, J.]