

mm

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 109 OF 2017

Suresh Supdu Kapadnis ...Appellant

Age: 43 years, Occ: service,
R/of: Flat No.4, Ganga-Parwati Tower,
Akshay Co-op. Hsg. Society,
Shivaji Nagar, Sinnar,
Tal: Sinnar, Dist: Nashik.

Vs.

The State of Maharashtra ...Respondent

(At the instance of the P.I. -
Wavi Police Station, Nashik)

Mr. Aniket U. Nikam, Advocate for the Appellant
Mr. H.J. Dedia, A.P.P. for the State

**CORAM : SMT. V.K. TAHILRAMANI, &
M.S. KARNIK, JJ.
DATED : 12TH APRIL, 2017**

ORAL JUDGMENT [PER SMT. V.K. TAHILRAMANI, J.]

1. Heard learned Counsel for the Appellant original accused and learned A.P. P. for the State.

2. This Appeal is directed against the order dated 30th January, 2017 passed by the learned Additional Sessions Judge - V, Nasik in

Criminal Mis. (Bail) Application No.31 of 2017 preferred by the Appellant seeking anticipatory bail. By the said order the application for anticipatory bail came to be rejected.

3. The Complainant was working as a Superintendent in the Educational Institution where the Appellant was working as the Principal. The Complainant has stated about separate incidents of rape committed on her by the Appellant. The incidents took place on 31st August, 2015, 16th September, 2015, 6th December 2015 and 13th December, 2015. She has stated in detail about the incidents of rape.

4. The learned Counsel for the Appellant submitted that though the last incident of rape is dated 13th December, 2015 the F.I.R. was lodged on 3rd January, 2017, which shows that it was lodged belatedly by the Complainant by way of afterthought. He further submitted that there were complaints regarding the behaviour of the Complainant with students as well as on other facts. The Appellant had written many letters to the Complainant in relation to these complaints. These complaints were even prior to the first

incident of rape. He further submitted that the Complainant was terminated on 15th December, 2016 and as a counterblast the Complainant has lodged this F.I.R. against the Appellant. As far as this contention is concerned it is the defence of the Appellant and he would have to prove it at the time of trial. These letters are not part of the investigation papers. At this stage on reading the F.I.R. it clearly shows that the Appellant committed rape on the complainant. It appears that after every incident of rape the Complainant kept quiet because the Appellant used to threaten her that she should keep quiet and not tell any one otherwise she will loose her job. It appears that on account of this threat of loosing job the Complainant kept quiet. However, once, she was removed from the job she was no longer under threat of losing job, hence, she lodged F.I.R.

5. As stated earlier the F.I.R. clearly shows that the Appellant committed rape on the Complainant. In the F.I.R., the Complainant has stated that she belongs to Scheduled Tribe whereas the accused belongs to Maratha caste, hence the Scheduled Caste Scheduled Tribe (Prevention of Atrocities) Act, 1989 will be attracted. In view

of the allegations in the F.I.R. Section 18 of the Act would come into play and hence anticipatory bail cannot be granted.

6. We are also of the opinion that the Investigating Agency should be given a fair chance to investigate which may not be possible if the Appellant is granted anticipatory bail.

7. In view of the above facts we are not inclined to grant Anticipatory bail. Appeal is dismissed.

(M.S. KARNIK, J.)

(SMT. V.K. TAHILRAMANI, J.)