

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

CRIMINAL APPEAL NO.996 OF 2018

Vishal Balasaheb Redke	 Appellant
versus	
The State of Maharashtra & Anr.	... Respondents

**WITH
CRIMINAL APPEAL NO.1082 OF 2018**

Prithviraj @ Bachhan Vitthal Jagtap	 Appellant
versus	
The State of Maharashtra & Anr.	... Respondents

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- Mr.Rahul S. Kadam Advocate for Appellant in Appeal No.996/18.
- Mr.Veeradhawal Deshmukh, Advocate for Appellant in Appeal No.1082/18.
- Mr.Akshay Kapadia, Advocate for Respondent No.2.
- Mrs.S.V. Sonawane, APP for Respondent/State.
- Prashant Rameshwar Swami, Dy.S.P., Karmala Police Station, is present.

**CORAM : INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.**
DATE : 14th JANUARY, 2019.

P.C. :

1. These Appeals are disposed of by this common order because they arise out of allegations in the same FIR registered at Karmala Police Station.

2. These Appeals are directed against the orders dated 13/03/2018 and 17/07/2018 passed by the learned Additional Sessions Judge, Barshi, who has rejected their application for anticipatory bail.

3. The prosecution case is as follows;

The prosecutrix was residing with her husband and two sons at Pune. Her in-laws were residing at Kaltan, Taluka Indapur and her parental house was at Korti, Taluka Karmala, District Solpaur. On 26/01/2018, the prosecutrix and her husband had taken their son Aarav to a dispensary at Karmala. There was some petty quarrel between the couple and the prosecutrix's husband had gone away leaving her at Karmala. In the evening four friends of husband of prosecutrix including the present applicants came there. The other two friends were Dada Bhiku Bhosle and Sunil Suresh Redke. They were residents of Kaltan, Taluka Indapur. They showed sympathy to the prosecutrix and told her that they are taking her to her

matrimonial house at Kaltan. At 11.00 p.m. when they reached near Indapur, they took her to an isolated shop. According to the prosecutrix, the Applicant Prithviraj @ Bachhan Vitthal Jagtap threatened to kill her and her son and thereafter committed rape on her. Thereafter Sunil Suresh Redke also committed rape on her. Thereafter she was taken to one hotel and she was kept there till 30/01/2018 and there the accused Dada Bhosle had committed rape on her.

4. On 31/01/2018 she escaped and went to her sister's house and thereafter lodged her FIR on 06/02/2018 at Karmala Police Station, vide C.R.No.88/18 under section 376(d), 363, 343, 323, 506 of Indian Penal Code and under section 3(2)(V), 3(1)(w)(i)(ii), 3(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.
5. Initially charge-sheet was filed against Dada Bhosle and Sunil Redke and they faced the trial in Special Case No.11/2018 decided by Special Judge, Barshi.

6. The learned Counsel Mr.Rahul Kadam produced before us the judgment passed in the said trial as well as the depositions of the prosecutrix. In the said trial, the prosecutrix has given her statement before trial Judge on oath whereby she has denied the incident in totality. In view of her deposition these two accused namely Dada Bhosle and Sunil Redke were acquitted. The copies of her deposition and judgment of trial Court are taken on record and marked 'X' collectively for identification.
7. We are informed that the charge-sheet is filed against the Appellant Prithviraj @ Bachhan Vitthal Jagtap in Criminal Appeal No.1082/18.
8. In view of the deposition of the prosecutrix given on oath in the trial Court, we are of the opinion that such statement would prevail at this stage for consideration of Appeal and since as per her deposition no such offence had taken place, neither of

these offences including the offence under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, are attracted against the present Appellants because of her deposition.

9. The Respondent No.2 is represented through her Advocate and there was no opposition to grant relief in these two Appeals. In view of this matter, we are of the opinion that this is a case where the relief as prayed for can be granted. Hence following order;

ORDER

- (i) The Appellants are directed to be released on bail in the event of their arrest in connection with C.R.No.88/18 registered at Karmala Police Station on their furnishing surety for the sum of Rs.15,000/- each with one or two sureties each in the like amount.

- (ii) The Appellants shall cooperate in the investigation whenever required by the Investigating Officer and they shall appear before the trial Court whenever required.
- (iii) We make it clear that this order is passed only in consideration of the present Appeal. The further proceedings arising out of the said C.R.No.88/18 of Karmala Police Station shall proceed in accordance with law.
- (iv) In view of these observations, both the Appeals are disposed of.

(SARANG V. KOTWAL, J.)

(INDRAJIT MAHANTY, J.)