

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

Criminal Appeal No.728 of 2018

Pranay s/o Suresh Bondre

vs.

The State of Maharashtra, through P.S.O. Paratwada, Achalpur, Amravati & another

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

*Shri Sunil Manohar, Senior Advocate with Shri N.S. Khubalkar,
Advocate for the Appellant.
Mrs. S.S. Jachak, A.P.P. for Respondent No.1/State.*

CORAM: SUNIL B. SHUKRE & S.M. MODAK, JJ.
DATE : 26th JUNE, 2019.

Heard.

Admit.

We have gone through the impugned order rejecting the application filed by the appellant seeking bail in Crime No.266/2018 registered against him at Police Station Paratwada, District Amravati. This crime has been registered for the offences punishable under Sections 376, 376(2)(n) & 417 read with Section 34 of the Indian Penal Code and also under Section 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. We have also gone through the case-diary.

On going through the complaint dated 04/08/2018 and the material present in the case-diary,

we find that learned Senior Advocate Shri Sunil Manohar for the appellant has rightly submitted that the essential ingredients for *prima facie* constituting the offence, which has been registered against this appellant, at least at this stage could hardly be seen.

Of course, learned A.P.P. Mrs. Jachak for the State has submitted by relying upon the statement of the complainant/victim that these ingredients are disclosed upon making holistic reading of the material and the statement available on record, but, with due respect, we do not find ourselves in agreement with the submission of the learned A.P.P. It is not in dispute that the victim of crime is a lady aged about 19 years, when she filed the complaint. The complaint discloses that the first alleged incident of intercourse, may be having its origin in the promise allegedly given by the appellant to the victim to perform marriage with her, occurred in April, 2018. It is also not in dispute that thereafter there was a series of such similar incidents till filing of the complaint. The complainant admits that these incidents began from the love relationship developed between herself and the appellant. She however, alleges that she involved herself in the whole affair against her will and believing in the promise so

given to her by the appellant. But, one does not understand as to why the complainant continued to believe in so called false promises for such a long period of time. At this stage, we do not see any explanation appearing on record. So, according to us, so far as the offence of rape is concerned, this would be a fit case for grant of bail to the appellant.

As regards the role of the appellant in offence of causing miscarriage without consent of the woman, which is an offence punishable under Section 313 of the Indian Penal Code, we find that there is not even a whisper made in this regard against the appellant and whatever allegations are there, they exist against the mother of the appellant. The mother of the appellant, however, has been granted anticipatory bail by the Hon'ble Apex Court.

These aspects of the matter have not been properly considered by the learned Additional Sessions Judge and, therefore, an error of fact and law has appeared in the impugned order. Even otherwise, as seen from the reply, no custodial requirement as regards this appellant has been expressed by the Investigating Officer. The impugned order, therefore, deserves to be quashed and set aside by allowing the

appeal.

The appeal is allowed. The impugned order is quashed and set aside. The prayer for grant of anticipatory bail by the appellant is hereby granted and it is directed that in the event of arrest of the appellant in Crime No. 266/2018, registered at Police Station Paratwada, District Amravati , the appellant be released on bail on his furnishing a P.R. Bond of Rs.25,000/- together with one solvent surety in the like sum on the following conditions :

- The appellant shall cooperate with the Investigating Officer in completing the investigation of the case.
- The appellant shall attend the concerned Police Station on every Saturday between 11:00 a.m. and 12:00 p.m. starting from the 29th June, 2019 till 28th July, 2019, and also on the occasions as and when required.
- The appellant shall not tamper with the prosecution witnesses.

JUDGE

JUDGE

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