

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

965. CRIMINAL APPEAL NO. 359 OF 2020

Akash S/o Prakash Ingole,
age 21 years occupation agriculture
R/o Pimpalgaon Taluka Naigaon (Kh.) Dist. Nanded
...Appellant

Versus

1. The State of Maharashtra
Through : Naigaon Police Station, Nanded
2. Satyadiksha D/o Kashinath Sontakke
age 17 years occupation education
R/o Pimpalgaon Taluka Naigaon (Kh.) Dist. Nanded.
... Respondents

Mr. A.M. Gaikwad, Advocate for appellant
Mr. S.W. Munde, Addl. Public Prosecutor for respondent No.1/State
Mr. V.B. Dhage, Advocate for respondent No.2

CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.

DATE : 11th August, 2020

ORAL JUDGMENT (PER :T.V. NALAWADE , J.)

1. The appeal is filed to challenge the order passed by the learned Addl. Sessions Judge, Biloli, by which the Bail Application No. 65 of 2020 filed by the present appellant in Crime Regn. No. 188/2019 registered in Naigaon Police Station Dist. Nanded for the

offences punishable U/Ss. 376(2), 354-D, 506 of the Indian Penal Code, under Sections 4, 6 & 12 of the protection of Children from Sexual Offences Act and U/Ss. 3(1)(w) & 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is rejected.

2. Heard the learned Counsel for the appellant, learned Addl. Public Prosecutor for the State and the learned Counsel for respondent No.2/informant. Seen the record of investigation.

3. The crime was registered on the report given by the victim girl. Her age was about 17 years at the time of filing the F.I.R. The F.I.R. was given on 29th December 2019. In the F.I.R., she has made allegation that about two months prior to the date of the F.I.R., when she was alone in the house at about 12.30 pm, present appellant entered her house and by using force, he raped her. It is the contention that threat of life was given and due to that she did not disclose the incident to anybody. It is the contention that on 29th December 2019 the appellant came towards her house and started scolding her by saying that she was avoiding him. After that incident, she narrated the incident to her parents and they approached the police.

4. The papers of investigation show that the prosecutrix is medically examined. She was carrying pregnancy on the date of the examination.

5. The learned Addl. Public Prosecutor and the learned Counsel for the informant submitted that as the prosecutrix was aged about 17 years, there was no question of her consent and so apparently, there is material to make out the prima facie case for the offence of rape.

6. This Court is not going into the details of the allegations and the details of the statements of witnesses including the statements given U/S. 164 of the Criminal Procedure Code. The accused has been behind the bars for about eight months and he has attained the age of 21 years. It is not certain how much time will be required to decide the case in the present situation like Pandemic of Covid 19. In view of these circumstances, this Court holds that it is not desirable to keep the appellant behind the bars.

7. In the result, the appeal is allowed. The order made by the learned Addl. Sessions Judge, Biloli, in Bail Application No. 65 of 2020 dated 17th April 2020, is quashed and set aside.

8. The appellant is to be released on bail on his furnishing P.R. and S.B. of Rs. 30,000/- (Rs. thirty thousand only).

9. The appellant is not to tamper with prosecution witnesses and not to commit similar offence.

10. The appellant is not to go near the place of the victim girl.

(M.G. SEWLIKAR)
JUDGE

(T.V. NALAWADE)
JUDGE

Madkar