

Anand

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

CRIMINAL APPEAL NO. 1414 OF 2019

Sambhaji Madhukar Kokare .Appellant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Sandeep Salunkhe, Advocate, for the Appellant
Mrs. S. V. Sonawane, APP, for the Respondent No. 1 – State
None for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.

DATE : 09.12.2020

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. Heard learned counsel for the parties.

2. By this Appeal, the Appellant seeks his enlargement on bail in connection with C. R. No. 65 of 2019 registered with the Mangalwedha Police Station, Solapur (Rural) for the alleged offences punishable under Sections 363, 366, 376(2) of the Indian Penal Code, under Sections 4, 8 & 12 of the Protection of Children from Sexual Offences Act (for short ‘POCSO’), under Sections 3(2)(va), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (‘SC ST Act’) and some of the provisions under the Motor

Vehicles Act.

3. Learned counsel for the Appellant submitted that there are absolutely no allegations under the SC ST Act, warranting its application. He submitted that the statement of the prosecutrix will go to show that it was a consensual relationship between the Appellant and the prosecutrix. He further submitted that the Appellant is in custody since February, 2019 and as such, his further detention is not warranted.

4. Learned APP opposed the Appeal. She submitted that the prosecutrix was a minor at the relevant time, aged 15 years and 7 months and that the Appellant aged 42 and a married man had taken advantage of the prosecutrix's young age by luring her. She submitted that, if the Appellant is released on bail, he will pressurize the prosecutrix and tamper with the witnesses.

5. Perused the papers, in particular, the statement of the prosecutrix, aged 15 years and 7 months. A perusal of the statement of the prosecutrix shows that the Appellant was her neighbour and that he was living with his wife in the vicinity and that the families were known to each other. The prosecutrix has stated that whenever she went to the

Appellant's house to deliver milk, the Appellant would slyly talk to her and that he had even given her a sim card so that she could speak to him. She has stated that the Appellant had professed his love for her and had promised to marry her. According to the prosecutrix, the Appellant had told her that they would run away on 08.02.2019, pursuant to which she left her house. She has stated that she stayed with the Appellant at different places, where he had physical relations with her, as he was to get married to her. Although, the prosecutrix has in her statement professed her love for the Appellant, what cannot be lost sight of, is that the Appellant was a married man, aged 42 years, who had lured the prosecutrix, a minor aged 15 years 7 months. The Appellant had taken advantage of her vulnerability and her tender age. The question of consent would not arise considering the fact that the prosecutrix was a minor at the relevant time. As far as offences under the SC ST Act are concerned, prima facie, it appears that there are no allegations warranting / attracting the said provisions.

6. Considering the allegations as against the Appellant, this is not a fit case to enlarge the Appellant on bail. However, the trial of the Appellant is expedited. The learned Judge, Sessions Court, Pandharpur to decide the case as expeditiously as possible and in any event, within

six months from the date of receipt of this order. Needless to state that the learned Judge to decide the case on its own merits, uninfluenced by the observations made in this order.

7. Accordingly, the Appeal is rejected and is disposed of in the aforesaid terms.

(REVATI MOHITE DERE, J.)