

**0IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL [STAMP] NO. 1184 OF 2019**

Maruti Bhagwat Gate	]	
(presently lodged in Sub Jail Barshi)	]	Appellant
Versus		
The State of Maharashtra & Anr.	]	Respondents

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Mr. Jaydeep D. Mane, for the Appellant.

Ms. M. H. Mhatre, APP for State-Respondent No.1.

Mr. Sharad T. Bhosale, for Respondent No.2.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 28TH FEBRUARY, 2020.

P.C:

. Heard learned Counsel for the appellant, the learned APP and the learned Counsel appearing for the first informant.

2. *Prima facie*, it is a very serious offence in which a 14 years old victim has not only been raped by the prime accused on several occasions but was also threatened by the present applicant of dire consequences if she discloses the fact to any one.

3. There is no dispute as regards the victim belonging to the Schedule Caste Community and was a minor at the time of the offence. Her fetus was terminated by the accused by taking the victim to Doctor Sindhu Kadam who has also been arraigned as an accused in this case. Not only they forced the fetus to be buried in the field but also it seems

that a false promise has been given to the parents of the victim that as and when she will turn eighteen, the accused would marry her.

4. An affidavit of respondent No.2 filed on record reveals that respondent No.2 has no objection in releasing the applicant on bail as his father is suffering from Kidney Stone and Diabetes.

5. This is something quite strange and unfathomable. Respondent No.2 and her husband are present in the Court today. On being asked, they repeated the same thing, but it is difficult to accept that the affidavit has been filed voluntarily without coercion or undue influence looking the social background of the gullible victim and her parents. Accepting such affidavit would frustrate the very statement of objects and reasons of enactment of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018.

6. The statement of the victim indicates as to how she was dragged by the principal accused Krishna R. Gate in the sugarcane field and after removing her dress, he committed forcible sexual intercourse with her. He even abused on her caste by saying '*Mangate*' and further threatened that he would kill her. Obviously, because of the said fear, the victim did not disclose the said fact to her parents. It seems that the accused had threatened the victim that he would ensure that she and her family would be driven out of the village.

7. The statement further reveals that the present applicant Maruti was present at the time of the incident of rape by his brother, however, he instead of restraining his brother from committing the crime aided

and abetted the offence. He had even gone to the extent to threaten the victim of dire consequences. Subsequently, the accused persons carried the victim and her father on their motor bike to the hospital of one Dr. Sindhu Kadam who caused miscarriage and then the fetus was buried.

8. The role played by the applicant is not less but equally serious to that of the role played by the prime accused.

9. Looking to the age and social background of the victim and her parents vis-a-vis the accused who is from upper strata of the society and the residents of the same village, it would be unsafe as well as dangerous to enlarge the applicant on bail. In case of his release, looking to the *modus operandi* being adopted by them, the possibility of tampering of the evidence and posing danger to the life and limb of the victim and her parents cannot be totally ruled out.

10. Merely because the appellant has been detained in the custody ever since his arrest would not ipso facto mean that he has an infeasible right to be enlarged on bail, pending the appeal.

11. Learned APP submits that a charge-sheet has already been filed against all the accused. In that view of the matter, the trial Court is directed to expedite the trial by taking into consideration the overall pendency of the old matters on his file.

12. The prosecution as well as the defence shall co-operate the trial Court in expediting the hearing of the case without seeking unnecessary adjournments.

13. Consequently, the appeal is devoid of merits and hence, dismissed.

[PRITHVIRAJ K. CHAVAN, J.]