

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

**CRIMINAL APPEAL NO. 1482 OF 2019**

Sahdeo Chandrakant Bhandare (Telang) .. Appellant  
v/s.  
The State of Maharashtra & Anr. .. Respondents

Mr. Faisal F. Shaikh a/w Ms. Khyati Shah for the appellant  
Mr. A.R. Kapadnis, APP for the respondent State

**CORAM : PRITHVIRAJ K. CHAVAN, J.**  
**RESERVED ON : 17<sup>th</sup> FEBRUARY, 2020**  
**PRONOUNCED ON : 26<sup>th</sup> FEBRUARY, 2020**

**P.C.**

1. This is an application for bail seeking release of the applicant – appellant who has been charge-sheeted by Solapur Rural Police Station, Mangalvedha, Dist. Solapur of the offences punishable under Sections 3(1)(w)(ii), 3(2)(va) of the S.C. and S.T. (Prevention of Atrocities) Act and under Sections 354(B), 342, 506 of the Indian Penal Code as well as under Sections 4, 12 and 42 of the POCSO Act. He has also been charge-sheeted under Sections 3(1)181, 5/180, 146/196, 130(3)/177, 115/120(2), 39/192(1), 158/192 of the Motor Vehicles Act.

2. In short, it is the case of the prosecution that on 26.05.2019

around 7.30 to 8.00 a.m. when the victim who was then aged about 13 years, had been to the house of the applicant to fetch milk. The applicant was alone at his house and, therefore, taking advantage of the said situation, he had gagged her mouth by putting a piece of cloth in her mouth and then took her inside the tin-shed. He tied her hands and legs despite resistance. Thereafter, he picked up her gown and pressed her breast. He also touched her private part and thereafter removed the piece of cloth from her mouth and kissed her lips. It is alleged that the victim is residing in the neighborhood of the applicant, he was aware that not only she was a minor girl but also belongs to Scheduled Caste community. It seems that when he was about to commit rape upon her, his wife entered and therefore, before she could notice the act of her husband, he immediately freed the victim by threatening her that if she discloses the incident to any one, he would throw her into the well. Thereafter, he even offered her 20 rupees note and asked her to come early on every morning. By that time his wife came inside, to whom the applicant asked to give her milk and left the spot.

3. Heard the learned Counsel for the appellant. He contends that

the statement of the victim recorded under Section 164 of the Criminal Procedure Code vis-a-vis her statement recorded by the Investigating Officer are contradictory and, therefore, it can be seen that it is a false case against the appellant.

4. The learned Counsel drew my attention to the statement of wife of the appellant. It reveals from her statement that on the day of incident, her husband returned home with a gunny bag containing cotton seeds. She followed him and reached home after 5 minutes. She noticed the victim sitting near the water tank and after some time her husband also appeared over there from the rear side of the tin-shed. Interestingly, the presence of the victim at the house of the appellant at the relevant time and the arrival of his wife has been substantiated. Not only that, the fact that the appellant appeared from side of rear tin-shed has also been reiterated by his wife. There is no reason to falsely implicate the applicant in this case. Undisputedly, the date of birth of the victim is 11.11.2006 and she belong to *Maang* community, which is a Scheduled Caste. The statement of the victim dated 27.05.2019 and her statement under Section 164 of the Criminal Procedure Code, demonstrate the vivid

details of atrocious acts as well as molestation at the hands of the appellant on the fateful day of 26.05.2019, Sunday, at about 7.00 to 7.30 a.m. when she had been to buy milk from the house of the appellant. It has been reiterated in both her statements before the learned JMFC, Mangalwedha as well as before the Investigating Agency as to how she was gagged by thrusting a handkerchief in her mouth and thereafter taken inside the tin-shed and after tightening her hands and legs, the appellant after removing her gown pressed her breast and thereafter touched her vagina and thereafter put his mouth in her mouth after removing the handkerchief. It is only on sudden arrival of his wife, the appellant could not succeed in his nefarious lust to commit rape upon the victim. Not only that, he threatened her of dire consequences of throwing her in a well if she disclose the fact to any one and then offered her 20 rupees note.

5. The learned APP drew my attention to the memorandum statement of the appellant.

6. *Prima facie*, even from the discovery panchanama under Section 27 of Criminal Procedure Code, it seems that the first wife of

the appellant died when she slipped into the well and, therefore, he performed second marriage. The second wife due to the quarrel with the appellant, set herself ablaze and succumbed to the injuries. The present is the third wife. It is shocking to know from his memorandum statement that he had illicit relations with the mother of the victim to whom he used to assist financially and, therefore, he had been falsely implicated by the mother of the victim in this case. Though this statement *per se* may not be looked into while entertaining an application for suspension of sentence yet, *prima facie*, the conduct of the appellant is writ large. A person of such propensity who is a resident of the same village if released, would prove counter productive not only to the family of the victim but also to her over all well being of and the possibility of repeating similar offence cannot be ruled out. Since, the charge-sheet has already been filed and the trial is yet to commence, at the most, the trial Court can be directed to expedite the case. However, it would not be just and proper to release him on bail.

7. Consequently, the appeal is devoid of merit and hence, dismissed.

8. The trial Court is directed to expedite the trial without allowing unnecessary adjournments and try to dispose it of by taking into consideration the pending cases of under trial prisoners.

**(PRITHVIRAJ K. CHAVAN, J.)**