

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

CRIMINAL APPEAL NO. 361/2020

Mohan Sahebrao Tayade,
Aged about 27 years, Occ. Service,
R/o Ambhoda, Tq and District Buldana,
At Present R/o Motihari, Bihar

.... **APPELLANT**

// **VERSUS** //

- 1] State of Maharashtra,
through Police Station Officer,
Shegaon, Tq Shegaon, Dist. Buldana.
- 2] Sushma Bhimrao More,
Aged about 24 years,
R/o c/o Ganesh Tayade,
Mahaveer Nagar,
Rajapeth, Amravati,
District Amravati

.... **RESPONDENTS**

Shri S.V. Sirpurkar, Advocate for the appellant
Shri T.A. Mirza, APP for the respondent no.1/State
Ms Deepali V. Sapkal, Advocate for the respondent no.2.

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.

DATED : 08/12/2020

ORAL JUDGMENT : (PER:- Z.A. HAQ, J.)

1] Heard.

2] Admit

3] The appellant was arrested on 30/08/2020 in connection with Crime No.269/2020 registered against him with the respondent No.1-Police Station for the offences punishable under Sections 376(2)(n), 417 and 504 of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The crime came to be registered on the report lodged by the respondent No.2-victim. The appellant had filed an application under Section 439 of the Code of Criminal Procedure before the Sessions Court which came to be dismissed by the impugned order.

4] The facts on record show that the appellant and the respondent No.2-victim were knowing each other since August 2018 and had been meeting each other and physical relationship also developed between them. The report is lodged by the respondent No.2-victim on 11/06/2020 alleging that the appellant exploited her sexually on the promise of marriage, however, subsequently refused to marry her. The appellant is serving in Army.

5] Considering the facts on record, while issuing notice of this appeal, by the order dated 23/09/2020, this Court granted

provisional bail to the appellant. In response to the notice, the respondent No. 2-victim has put in appearance and has filed her reply opposing the appeal. According to the respondent No.2-victim, she is receiving obscene and threatening calls from unknown numbers and she has lodged a complaint about it with the Cyber Cell, Amravati. According to the respondent No.2-victim, the calls are made by some unknown persons on the say of the appellant and his brother who is residing at Buldhana.

6] Considering the nature of the complaint made by the respondent No.2-victim, we had called upon the respondent No.1-Investigating Agency to point out what steps were taken by the Cyber Cell, Amravati on the complaint lodged by the respondent No.2-victim.

7] An additional affidavit sworn by the Police-Sub Inspector, Police Station, Shegaon City on 03/10/2020 is placed on record pointing out that on the complaint lodged by the respondent No.2-victim with the Cyber Cell, Amravati, Crime No. 69 of 2020 is registered against the unknown person for the offences punishable under Sections 67 and 67A of the Information Technology Act, 2000 and the investigation is in progress. It is

stated that till now, the cell phone numbers given by the respondent No.2-victim could not be traced.

8] Be that as it may, considering the facts of the case, specially that the appellant is in service and there is no complaint either by the respondent No.1-Investigating Agency or by the respondent No.2-victim that he has misused the liberty granted as per the order dated 23/09/2020 and as the respondent No.1-State has not been able to point out that custody of the appellant is required, we pass the following order.

(1) The impugned order is set aside.

(2) The order passed by this Court on 23/09/2020, directing release of the appellant on bail on the conditions as stated in that order, is confirmed.

The appeal is **allowed** in the above terms.

However, it is clarified that in case, in the investigation in Crime No. 69 of 2020, anything adverse is found against the appellant, the respondent No.1-Investigating Agency or the respondent No.2-victim will be at liberty to approach this Court for cancellation of bail granted to the appellant.

Fees of Ms Deepali Sapkal, Advocate appointed to represent the respondent No.2-victim be paid as per the Rules.

JUDGE

JUDGE

J.Pethe