

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

CRIMINAL APPEAL NO.413 /2020

Sushil @ Pintu @ Balu Haribhau Bokshe Vs. State of Maharashtra and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri K. S. Narwade, Advocate for Appellant.
Ms. M. H. Deshmukh, A.P.P. for Respondent/State.

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

DATE : 23/11/2020.

1. After arguing for sometime, learned Advocate for the appellant submitted that the mother of victim is impleaded as respondent no. 2 in this appeal as the victim is said to be mentally challenged. It is further submitted that the report is also lodged by the respondent No.2 – mother of victim. However, it is submitted that as per Section 15-A(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the victim will have to be impleaded and learned Advocate seeks leave to implead the victim as respondent No.2(A).

2. Leave granted.

3. Issue notice to the respondent No.2(A)-victim, returnable in third week of December, 2020.

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4. Learned Advocate for the appellant submitted that

the appellant may be granted interim protection from arrest.

5. The prayer for interim protection is opposed by the learned A.P.P. on the ground that there is ample material on record which suggests involvement of the appellant in the crime and as the victim is mentally challenged, the appellant does not deserve any sympathy and interim protection.

6. We have gone through the First Information Report. The facts on record show that the victim gave birth to a child on 21.09.2019, which according to the informant is begotten by the victim because of forcible intercourse by the appellant. The First Information Report is registered on 31.08.2020. According to the appellant, any other crime is not registered against him. According to the appellant, the victim is not physically challenged and has difficulty only in speaking.

7. Be that as it may, as we find that the respondent No.1 – Investigating Agency has not been able to point out the necessity of custodial interrogation of the appellant and considering the accusations made against the appellant in the First Information Report, prima facie, at this stage, we are satisfied that the appellant is entitled for interim protection.

Hence, the following order:

ORDER

i. In the event of arrest in connection with Crime No.215/2020 registered with the respondent No.1 – Police

Station for the offences punishable under Sections 376, 376(2) (j) of the Indian Penal Code and Sections 3(1)(w)(ii) and 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant be released on provisional bail on executing PR Bond for Rs.20,000/- (Rs. Twenty Thousand Only) and on furnishing one solvent surety in the like amount.

ii. The appellant shall attend the Respondent No. 1- Police Station as and when summoned by the Investigating Agency.

The Criminal Application is allowed accordingly.

JUDGE

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