

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 538 OF 2021

Parmeshwar S/o. Babruwan More

...Appellant

Versus

1. State of Maharashtra and another

...Respondents

Advocate for Appellant : Mr. S.J. Salunke

APP for Respondent No. 1 : Mr. R.V. Dasalkar

Advocate for Respondent No. 2 : Mr. D.M. Shinde

**CORAM : V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 22.11.2021

Per Court :

1. The appellant is seeking anticipatory bail in connection with Crime No. 355/2021, registered with Ambajogai City Police Station, Taluka Ambajogai, District Beed, for the offences punishable under Sections 376 (2) (n), 384, 452, 392, 354, 354 B, 3 (1) (s), 3 (1) (w), 3 (2) (v), 3 (2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. His application with similar prayer in Criminal Bail Application No. 427/2021, came to be rejected by the learned Additional Sessions Judge, Ambajogai, vide order dated 06.10.2021.

2. In terms of the provision of Section 14 A Sub Section 2 of

the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, this appeal has been preferred for bail.

3. Learned counsel for the appellant – accused submits that the allegations have been made mainly against co-accused Dayanand Rajesaheb Tarkase who has been released on regular bail. Learned counsel submits that there are allegations as against the appellant only to the extent of the incident allegedly occurred on 20.07.2021. It has been alleged that on the basis of certain obscene videos in the mobile handset, the appellant – accused had also committed rape on the informant by giving her threats of making the said videos viral.

4. Learned counsel for the appellant submits that the appellant had purchased certain immovable property from the villagers of village Morewadi under the registered sale deed. However, due to some dispute the appellant was constrained to institute the suit bearing RCS No. 177/2021 for declaration of ownership and decree of perpetual injunction. In the said pending suit one Tiwari Ramchandra More and Tatya Shrawan Ghadge have filed an application under Order 1 Rule 10 (2) of the Civil Procedure Code, for adding them as party – defendants

allegedly on the basis of one Kaulnama. Learned counsel submits that the witness referred in the present complaint namely Prashant Namdevrao Acharya is one of the witnesses to the said Kaulnama. Learned counsel submits that respondent No. 2 - Informant has also filed her affidavit in the bail application submitted by the appellant before the Sessions Court, wherein, she has merely alleged that the present appellant herein has helped co - accused Dayanand Tarkase in commission of the crime. Learned counsel submits that even in para No. 5 of the affidavit-in-reply, respondent No. 2 has stated that the present appellant herein has helped the accused person.

5. Learned counsel for the appellant submits that respondent No. 2 - Informant is a married women, 40 years of age. The incident allegedly have been occurred during the period of 10.05.2018 to 13.09.2021. There is no explanation for the delayed complaint. The appellant is working as a Technician in Medical College and Hospital, Ambajogai. He has a very good service record. Learned counsel submits that the appellant may be released on anticipatory bail.

6. Learned APP submits that though the allegations have been made mainly against the co-accused Dayanant Tarkase, however, respondent No. 2 - Informant has also made allegations against the appellant by quoting the incident allegedly occurred on 20.07.2021. Learned APP and learned counsel appearing for respondent No. 2 - Informant have fairly accepted that respondent No. 2 - Informant has not made any allegation about the commission of rape against the appellant - accused in her statement recorded under Section 164 of Code of Criminal Procedure, by the Magistrate.

7. Learned counsel for respondent No. 2 has, however, strongly opposed the appeal and in the alternate submits that if the Court is inclined to release the appellant on bail, stringent conditions may be imposed on him.

8. We have carefully gone through the allegations made in the complaint and we have also perused the police papers. Respondent No. 2 - Informant is 40 years of age and a married woman. Though, there are certain allegations against co-accused Dayanand Tarkase about the commission of rape by threatening her to make the obscene videos viral, however,

respondent No. 2 - Informant has belatedly lodged the complaint for which no satisfactory explanation has been tendered. Apart from this, respondent No. 2, though made certain allegations against the appellant - accused by quoting the incident allegedly occurred on 20.07.2021, however, in her statement recorded under Section 164 of Cr.P.C. by the Magistrate, she has not made any allegation against the appellant - accused about the commission of rape. There are no antecedents. In the given set of allegations and considering the allegations which have been mainly made against the co-accused Dayanand Tarkase who is already released on bail, the custodial interrogation of the present appellant - accused is not necessary. Thus, by imposing certain conditions, we are inclined to release the appellant - accused on anticipatory bail. Hence, the following order :

ORDER

- a. Appeal is hereby allowed.
- b. In the event of arrest of appellant - accused namely Parmeshwar Babruwan More, in connection with Crime No. 355/2021, registered with Ambajogai City Police Station, Taluka

Ambajogai, District Beed, for the offences punishable under Sections 376 (2) (n), 384, 452, 392, 354, 354 B, 3 (1) (s), 3 (1) (w), 3 (2) (v), 3 (2) (v a) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, he be released on bail on furnishing Personal bond in the sum of Rs. 20,000/- (Rupees twenty thousand) with one solvent surety in the like amount on the following condition :

- i. The appellant - accused shall attend the concerned police station once in a week on every Sunday between 08:00 a.m. and 11:00 a.m. and also make him available as and when required by the Investigating Officer in carrying out the investigation in connection with the crime, if any, till filing of the charge-sheet.
- c. Appeal is accordingly, disposed off.

(SANDIPKUMAR C. MORE, J.)

(V .K. JADHAV, J.)