

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 695 OF 2021

Anil Pundlik Patil

.. Appellant

v/s.

The State of Maharashtra And Anr.

.. Respondents

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Mr. Anand Patwardhan, a/w. Ms. Jaymala Ostwal, Ms. Komal M. Gosavi, Ms. Shruti Chetna, Ms. Akanksha Sarpole and Ms. Gauri Samel, i/b. M/s. J.J. Associates, for the Appellant.

Mr. K.V. Saste, APP, for Respondent No.1.

Ms. Snehal Chaudhari, Advocate appointed through Legal Aid, for Respondent No.2.

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**CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.**

DATE : 1 DECEMBER 2021.

P.C:-

Heard the learned Counsel for the Appellant, the learned Counsel for Respondent-complainant and the learned APP.

2. This appeal is filed challenging the order passed by the learned Special Court, Panvel, dated 21 June 2021, rejecting the

application filed by the Appellant for bail and for the prayer for releasing the Appellant on bail in connection with C.R. No. I-62-2021. C.R. No. I-62-2021 at Taloja Police Station is in respect of Sections 376(1), 376(2)(n), 417, 420 of Indian Penal Code and under Section 3(1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 2015 ("SC/ST Act").

3. The case of the Respondent-Informant is that she is married and she and her husband is no longer live together. In the year 2002 she became friendly with the Appellant, who promised that he would marry her and took her to various places. From April 2002, there were physical relations between the Appellant and Respondent No.2. In the year 2016, the Appellant took a room near Kalamboli, where the Appellant and Respondent No.2 stayed for two years. The Appellant had promised Respondent No.2 that he would marry her. The Appellant asked for money from Respondent No.2, which Respondent No.2 paid by pledging her gold ornaments and borrowing totalling around Rs.14,54,000/-. From 22 April 2017 onwards, the Appellant had stopped contacting her. On these allegations, the FIR was lodged on 4 March 2021. Statement of Respondent No.2 was recorded and the Appellant came to be arrested on the same date and he is in custody since then.

4. The learned Counsel for the Appellant has drawn our

attention to the earlier statements made by Respondent No.2 on 20 December 2018 and 23 January 2020, when Respondent No.2 had stated to have gone to the Police Station. The learned Counsel for the Appellant submitted that there is complete variation in these statements and the statement given on 4 March 2021. The learned Counsel submitted that as per the statement of Respondent No.2, the physical relationship between the Appellant and Respondent No.2 continued for 15 years. They had stayed together for two years and it is improbable that Respondent No.2 would continue to maintain physical relationship for 15 years on the ground that the Appellant would marry her. The learned Counsel submitted that since the Appellant is in custody for almost nine months, the Appellant be released on bail on such terms and conditions as the Court deems fit. The learned Counsel for the Respondent-Informant submitted that the learned Sessions Judge has rightly rejected the bail application, considering the seriousness of the crime, and not only that rape committed, but a financial loss to the Respondent-Informant, the learned Counsel for Respondent No.2 submitted that this is not a case for grant of bail.

5. Having perused the statement of Respondent No.2 recorded on 4 March 2021, we find that as per the version of Respondent No.2 herself, she was married. Thereafter, both the Appellant and Respondent No.2 were in relationship for 15 years.

They had stayed together for two years. From the earlier statements made, the primary grievance seems to be in terms of money, which the Appellant has not returned. As regards the offence under Section 376 is concerned, prima facie, as stated above, since Respondent No.2 was married and that the promise to marry by the Appellant was not fulfilled for more than a decade and a half, yet a physical relationship continued. The Appellant is right in contending that there is a serious doubt regarding this allegation that Respondent No.2 was deceived in physical relationship on the promise to marry. As for the allegation regarding money not returned is concerned, we note that the Appellant is already in jail for almost a year. As regards the offence under the provisions of SC/ST Act is concerned, except one line that she was abused even when Respondent No.2 went to ask for money, even though the Appellant was aware that she belonged to the Scheduled Caste, there is no other assertion. No particulars of the words used with reference to caste are mentioned. Therefore, considering the totality of the circumstances, we are of the opinion that case for grant of bail is made out.

6. Accordingly, the appeal is allowed. The Appellant be released on bail on P.R. Bond of Rs.25,000/- with one or two surety/sureties in the like amount in respect of C.R. No. I-62-2021 at Taloja Police Station. The Appellant will attend the Sessions Court as and when directed by the Sessions Court. The Appellant shall not in

any matter try to influence the Respondent-complainant or threaten the Respondent-complainant.

7. The appeal is, accordingly, disposed of as above.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)