

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.510 OF 2020

Ashok @ Kaka Savleram Jogdand]
 R/at Jalochi, Chavan Eco Park, Flat No.B-]
 9, Tal-Baramati, District Pune.]
 Permanent Resident of Kamaleshwar]
 Dhanora, Tal-Shirur (Kasara), Dist. Beed]
 (At present in sub-jail Baramati).] ... Appellant

Versus

1. The State of Maharashtra]
 (At the instance of Baramati Taluka]
 Police Station vide C.R. No.426 of]
 2019 through Public Prosecutor.)]
2. Smt. Rani Dattatray Kambale]
 Resident of Pandare (Ashoknagar),]
 Tal-Baramati, Dist. Pune.] ... Respondents

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Ms. Rekha Musale i/b Mr. Nitin Rajguru for the appellant.

Dr. F.R. Shaikh, A.P.P. for respondent No.1 -State.

...

CORAM : S.S. SHINDE &
MANISH PITALE, JJ.

RESERVED ON : 11ST JANUARY, 2021.

PRONOUNCED ON : 27TH JANUARY, 2021.

JUDGMENT:- [Per: Manish Pitale, J.]

1. By this appeal, the appellant (original accused) has challenged order dated 19/06/2020 passed by the Additional Sessions Judge, Baramati, whereby application for bail filed by the appellant was rejected. The appellant is an accused along with other persons in Special (Atro.) Case No.124 of 2019 pending before the said court.

2. On the basis of a complaint lodged by respondent No.2 on 09/05/2019, offences have been registered against the appellant under Sections 120-B, 417, 418, 376(D), 377, 417, 418 and 120-B of the Indian Penal Code ("**IPC**") and under Sections 3(1)(W)(ii), 3(2) (5) and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("**Atrocities Act**").

3. As per the complaint lodged by respondent No.2, the appellant along with other accused persons committed forcible sexual acts upon the said respondent resulting in registration of the said offences.

4. The appellant was arrested on 14/03/2020 and he is in custody since then. Upon completion of investigation, charge-sheet was filed in the present case on 23/09/2019 and supplementary charge-sheet came to be filed on 14/05/2020. The appellant had filed application for bail (Ex-7) before the court below, which stood dismissed by the impugned order.

5. Ms. Musale, learned counsel appearing for the appellant submitted that since the investigation is now complete and charge-sheet has been filed, the court below ought not to have rejected the bail application merely on the basis that serious allegations have been levelled against the appellant and that the alleged offences were of serious nature. It was submitted that the medical examination report of respondent No.2 in the present case, clearly indicated that there was absence of any violence resulting in injuries on the body of respondent No.2, which falsified the claims made on her behalf in the complaint. It was submitted that the appellant would abide by the conditions as this court may impose while granting the bail.

6. Dr. Shaikh, learned A.P.P. appearing for the State, submitted that the material on record clearly indicated the involvement of the appellant in serious offences. It was further submitted that grant of bail to the appellant would be detrimental to the proceedings pending before the court below. He informs the court that there are only 13 witnesses and that therefore, the trial would be completed in the near future. He submitted that therefore, there was no reason for grant of bail to the appellant, apart from the fact that strong *prima facie* case existed against him.

7. Heard learned counsel appearing for the rival parties and perused the material on record. A bare reading of the complaint leading to the registration of FIR would show that specific role is attributed to the appellant. Respondent No.2 has made very serious allegations of sexual

assault against the appellant, thereby showing that the registration of serious offenses against the appellant appear to be justified. It has come on record that respondent No.2 confirmed the allegations against the appellant even in her statement recorded under Section 164 of the Code of Criminal Procedure (“Cr.P.C.”). It is also found that respondent No.2 identified the appellant in the test identification parade. The material that has come on record along with the charge-sheet does indicate, *prima facie*, involvement of the appellant in serious offences, including offences under the provisions of the Atrocities Act.

8. Considering the serious nature of the offences as also the material on record indicating strong *prima facie* case against the appellant, and the fact that the release of the appellant would lead to interference with the proceedings pending in the trial court particularly, when respondent No.2 (original complainant) is a lady belonging to a poor financial background, we are of the opinion that no error can be attributed to the court below, in rejecting the bail application of the appellant. In view of the above, the appeal is dismissed.

9. Since learned A.P.P. has informed this court that only 13 witnesses are to be examined, the court below is directed to expedite the trial and make all endeavour to complete the proceedings within a period of six months from today.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)