

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

CRIMINAL APPEAL NO. 276 OF 2021

Shrikant s/o Suresh Kale,
Aged about 34 years,
Occ.- Service,
Resident of - 456, Main Road Pachkhedi,
Tq. Kuhi, Dist. Nagpur
Mob No. - 9595454700

... **APPELLANT**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station, Ramnagar, Tah &
Dist – Gondia.
2. Vaishnavi d/o Suresh Meshram
Aged – 24 years,
Occ. Docotr, R/o Sindhi Line,
Ward No. 4, Lakhani, Tah –
Lakhani, Distt. Bhandara.

... **RESPONDENTS**

Shri A.P. Wagh, Advocate for the Appellant.
Shri M.J. Khan, A.P.P. for respondent no.1/State.
Shri J.K. Matala, Advocate for respondent no.2.

CORAM : VINAY JOSHI, J.

DATED : : 28/10/2021

ORAL JUDGMENT :

Heard.

2. ADMIT.

By consent of learned Counsel appearing for the parties, the appeal is taken up for final hearing.

3. Challenge in this appeal is to the judgment and order dated 26.06.2021 passed in Criminal Bail Application No.150 of 2021 by the Sessions Judge, Gondia.

4. Perused the case papers and reply in resistance. The informant-lady aged 26 years was serving as a Medical Officer in a private Hospital. The appellant/accused was servicing as a Marketing Manager and used to visit the Hospital for business purpose. The informant alleges that she got acquainted with the appellant and they were frequenting with each other on cell phone. She stated that the appellant took disadvantage of their acquaintance and had expressed

his love. According to the informant, as she refused to succumb to the wishesh of the appellant, he caused Management to remove the informant from service. The informant belongs to Scheduled Caste and therefore, the report of sexual harassment and under Section 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short ' the SC and ST Act') has been lodged.

5. Learned Counsel for the appellant would submit that it was a case of love affair. He has produced copies of call details as well as photo copies of screen shots to support his contention that both were in relationship. According to the appellant since the informant was removed from the service, out of vengeance, she has filed false report. *Prima facie*, photographs tendered on record indicates that there was relationship in between them.

6. So far as the applicability of provisions of the SC and ST Act are concerned, it is argued that the appellant was unaware about the caste of the informant. It reveals that neither the appellant was nearby resident nor having substantial reason to know the caste of the informant. Since everything was out of love relationship, *prima facie* it

cannot be said that only because of the informant was a member of Scheduled Caste, the appellant did the acts. The applicability of provisions of the SC and ST Act requires consideration. As per direction of this Court, appellant has attended concerned Police Station and his mobile handset has been seized. By the time the Police have complete investigation and charge-sheet has been filed. Having regard to all these circumstances, the appellant's liberty can be protected, hence the following order :

- (a) The Criminal Appeal stands allowed.
- (b) Impugned judgment and order dated 26.06.2021 passed in Criminal Bail Application No.150 of 2021 by the Sessions Judge, Gondia is hereby quashed and set aside.
- (c) Ad-interim order dated 17.07.2021 is hereby made absolute upon same terms and conditions. Henceforth, the appellant shall attend concerned Police Station as and when called.

JUDGE

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