

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

CRIMINAL APPEAL NO. 284 OF 2021

Shubham Gulabrao Kalapad,
Aged 25 years, Occ. : Cultivator,
R/o. Old IUDP Colony, Second Phase,
Washi, Tq. & Dist. Washim.APPELLANT

... **VERSUS** ...

1. State of Maharashtra
Through Police Station Officer, Washim,
(City) Police Station, Tq. And Dist. Washim.
2. Manisha Narayan Wankhede,
Aged 21 years, Occ.: Labourer,
C/o. Kute's House, Near Hanuman
Mandir, Kale Fail, Washim,
Tq. & Dist. Washim.RESPONDENTS.

Shri S. P. Bhandarkar, Advocate for Appellant.
Shri V. A. Thakare, A.P.P. for Respondent/State.

CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.

DATE : 28.07.2021.

ORAL JUDGMENT : (PER V. M. DESHPANDE, J.)

1. Heard Shri S. P. Bhandarkar, learned counsel for the appellant.
2. Though the office note shows that respondent No.2 – Manisha Narayan Wankhede is not served, Shri V. A. Thakare, learned Additional Public Prosecutor submits that she is present in the Court Hall. She disclosed her identity as a respondent No.2.

3. In view of this, notice to the respondent No.2 is complete.

4. **ADMIT.**

5. Taken up for final hearing.

6. This appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is filed by the appellant because of the application filed by the appellant under Section 439 of the Code of Criminal Procedure i.e. Criminal Bail Application No.238/2021 is rejected by the learned Additional Sessions Judge, Washim on 06.07.2021.

7. Heard Shri S. P. Bhandarkar, learned counsel for the appellant and Shri V. A. Thakare, learned Additional Public Prosecutor for the State.

8. The learned counsel for the appellant invited our attention to page 32 of the compilation. It is an affidavit filed by the respondent No.2 before the Trial Court. The affidavit would show that she was instigated by her relatives and therefore, they took her to Police Station. She claims that she was not knowing what is stated in the report and her signature was only obtained. In the said affidavit she solemnly states that she will not have any objection if the bail is granted to the appellant. The learned

Additional Sessions Judge rejected the bail application after perusal of the case diary and by observing it he noticed that there was sexual intercourse with the victim on various occasions by the appellant upon the assurance of marriage with her.

9. Today also respondent No.2 in vernacular submitted before the Court that she was not knowing what is stated in the report. It was prepared by her relatives and only her signature is obtained and there is no objection for grant of anticipatory bail.

10. At the time of lodging the First Information Report, her age was 21 years. Though the respondent No.2 is not highly qualified, but she has completed her education of middle school. She can write and she can read.

11. After perusal of the First Information Report, we are of the view that the applicant can be granted bail in view of the law laid down by the Hon'ble Apex Court in the case of ***Pramod Suryabhan Pawar Vs. State of Maharashtra and Anr.*** reported in (2019) 9 SCC – 608. In that view of the matter, we pass the following order :

ORDER

i. Order passed by the learned Additional Sessions Judge, Washim dated 06.07.2021 in Criminal Bail Application No.238/2021 is hereby quashed and set aside.

ii. Appellant Shubham Gulabrao Kalapad is directed to be released on bail in connection with Crime No.1078/2021 registered with the Police Station Washim for the offences punishable under Sections 376(2)(n), 506 read with 34 of the Indian Penal Code, Sections 3(2)(va), 3(1)(r), 3(1)(s) and 3(1)(w)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 on executing P. R. Bond of Rs.15000/- with one solvent surety in the like amount.

iii. The applicant is directed to visit the concerned Police Station as and when he is called by the Investigating Officer. However, for that the Investigating Officer shall give a clear-cut communication of 48 hours.

iv. The appellant shall not give any type of threat to the respondent No.2.

v. The Criminal Appeal is allowed and disposed of.

In view of disposal of the Criminal Appeal, pending Criminal Application (APPA) No. 394/2021 does not survive. The same stands disposed of accordingly.

JUDGE

JUDGE