

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

CRIMINAL APPEAL NO. 452 OF 2020

Natthu s/o Chirkut Kolhekar,
Aged : 63 years, Occ : Labourer,
R/o At Ubali, Tq. Kalmeshwar,
Dist. Nagpur.

... **APPELLANT**

V E R S U S

1. State of Maharashtra,
Through P.S.O. Kalmeshwar,
Distt. Nagpur.

2. Sugantibai Shivkumar Tekam,
Aged about : 39 years,
R/o C/o Manoj Golawar,
Ghorad Tah : Kalmeshwar,
Distt. Nagpur.

(Added as per Court's
order dtd.26.11.2020)

2A. Sumanlal Hajari Kajle,
Aged about : 36 years,
R/o C/o Ashok Patle,
Ubali, Tah : Kalmeshwar,
Distt. Nagpur.

(Amended as per Court's
order dtd.14.12.2020)

... **RESPONDENTS**

Ms. P. S. Chaudhari, Advocate for appellant.

Shri N.S.Rao, Additional Public Prosecutor for respondent No.1-
State.

Ms. Sneha Dhote, Advocate (Appointed) for respondent No.2A.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.

DATED : 02/02/2021.

ORAL JUDGMENT : (PER : Z.A. HAQ, J.)

1. Heard.

2. **Admit.**

3. Crime No.769/2018 is registered against the appellant and one more accused for the offences punishable under Sections 376(D), 452, 324 and 294 of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The First Information Report is registered on the report lodged by the respondent No.2A - Sumanlal Hajari Kajle (brother of victim). By the order dated 26/11/2020, this Court directed issuance of notice to the respondents and directed to release the appellant on provisional bail.

5. The respondent No.2A - Sumanlal (Informant) is served and is represented by an Advocate. The notice of the appeal could not be served on the respondent No.2 - Sugantibai Shivkumar Tekam and the report of process server shows that she is untraceable. An affidavit sworn by the S.D.P.O., Saoner Division, Nagpur (Rural) is placed on record pointing out the steps taken by the Investigating Agency to serve the notice of appeal on the respondent No.2 - Sugantibai. From the above affidavit, it appears that the Investigating Agency is finding it difficult to trace the respondent No.2 - Sugantibai and the family members of the

respondent No.2 - Sugantibai i.e. her husband, brother and father have not co-operated with the Investigating Agency.

6. The appellant is aged about 63 years. In paragraph 1 of the Memorandum of Appeal, it is stated that any other crime is not registered against the appellant. The charge-sheet is filed. Apart from the fact that the Investigating Agency has not been able to show that further custody of the appellant is required. After release of the appellant on provisional bail as per the order dated 26/11/2020, there is no complaint either by the Investigating Agency or by the Informant that the appellant has misused the liberty.

7. In view of the above, the following order is passed :-

i] The impugned order passed by the Special Court is set aside.

ii] The order passed by this Court on 26/11/2020 directing that the appellant be released on bail is confirmed on the same terms and conditions.

8. The appeal is allowed accordingly.
9. The fees of the Advocate appointed to represent the respondent No.2A be paid as per the Rules.

JUDGE

JUDGE

Choulwar