

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

CRIMINAL APPEAL NO. 722 OF 2019

Dilip S/o. Harikisan Jaiswal,
Aged about 53 years, Occ : Business,
R/o. Chikhali, Tah. Chikhali,
District : Buldhana.

.... **APPELLANT.**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Chikhali, Tah.Chikhali,
District : Buldhana.
2. Bhagyashree Samadhan Ghule,
Aged about 35 years,
R/o. Paradh, Tah. Bhokardhan,
District : Jalna.

.... **RESPONDENTS.**

Shri A.S.Dhore, Advocate for Appellant.
Shri T.A.Mirza, A.P.P. for Respondent No.1/State.
Ms Sweety Bhatia, Advocate (Appointed) for Respondent No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : JANUARY 06, 2021.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.
2. **ADMIT.**

3. This is an appeal filed under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 14th October 2019 passed by Special Judge, Buldana rejecting Criminal Bail Application No. 373 of 2019 in connection with Crime No.614 of 2019 registered with respondent No.1 Police Station for the offences punishable under Sections 376(2)(n), 342, 324, 506 of the Indian Penal Code and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The First Information Report came to be registered against the appellant with the accusations that the respondent No.2 was in relationship with the appellant for 4 years. The appellant promised her that he will provide employment to the sons of the respondent No.2. It is further alleged that on 24th September 2019 the appellant had forcible sexual intercourse with the respondent No.2. The respondent No.2, therefore, on 25th September 2019 filed report with respondent No.1-Police Station. The appellant came to be arrested on 25th September 2019. The appellant, therefore, filed Criminal Bail Application No.373 of 2019 which was rejected by the impugned order. The appellant, therefore, has filed present appeal. This Court on 6th November 2019 issued notice to the respondents and released the appellant on provisional bail. The respondent No.2 after service of notice requested for grant of legal assistance through High Court Legal Services Sub-Committee,

Nagpur. Ms S.H. Bhatia, Advocate was therefore, appointed to represent the respondent No.2.

5. Today, when the matter was called out, Shri A.S.Dhore, learned Advocate for the appellant submitted that in the order dated 6th November 2019 it was incorrectly mentioned that the charge-sheet is filed. He on 11th November 2019 filed application for speaking to the minutes to delete the reference regarding filing of the charge-sheet.

6. We have gone through the contents of the First Information Report and the contents of the impugned order. After having carefully considered the contents of the First Information Report and the impugned order, we find that from the accusations in the First Information Report itself it is clear that the respondent No.2 was in relationship with the appellant for four years. The respondent No.2 is aged about 35 years. The respondent No.2 is married and is having three children. Though the respondent No.1 in its reply paragraph No.8 has pointed out that there are three crimes registered against the appellant, the appellant has annexed the copy of the judgment in Sessions Case No.82 of 2012 by which the appellant was acquitted of the offences bearing Crime No. 49 of 2012 which was registered under Sections 302, 323, 342, 201 and 143 of the Indian Penal Code. Rest of the crimes which are registered against the appellant are under Section 188 of the Indian Penal Code and Section 65-E of the Maharashtra Prohibition Act.

7. The appellant has annexed copy of the charge-sheet. The investigation is complete. The prosecution has not been able to point out that custodial interrogation of the appellant is necessary. It is also not pointed out that the appellant has misused the liberty granted by order of this Court on 6th November 2019.

8. Hence, we pass the following order:

- i) The impugned order dated 14th October 2019 passed by learned Special Judge, Buldana in Criminal Bail Application No.373 of 2019 is quashed and set aside.
- ii) The order granting provisional bail dated 6th November 2019 is hereby confirmed on the same conditions stated in the said order.

The criminal appeal is **allowed** in the above terms.

9. Fees of Ms S.H.Bhatia, Advocate appointed to appear on behalf of the respondent No.2 be quantified as per Rules.

CRI. APPLN. NO. 982/2019.

In view of disposal of the appeal, the application praying for speaking to the minutes of the order dated 06/11/2019 has become infructuous, hence, it is **disposed**.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)