

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

CRIMINAL APPEAL NO. 732 OF 2019

Vitthal S/o. Haridas Gogate,
Aged 23 years, Occ : Labourer,
R/o. Laxmi Nagar, Mothi Umari,
Akola.

.... **APPELLANT.**

// VERSUS //

1. The State of Maharashtra,
through Police Station Officer,
Police Station, Civil Lines, Akola
Tq. and District : Akola.
2. Priyanka D/o. Haridas Kachote,
Aged 20 years, Occ – Nil,
R/o. C/o. Mahesh Bagera Jaiswal,
In front of Godown, Mothi Umari,
Akola, Tq. And Dist. Akola,
Presently residing at
C/o. Sangita W/o. Haridas Gogate,
Laxmi Nagar, Mothi Umari, Akola,
Tq. And Dist. Akola.

.... **RESPONDENTS.**

Shri A.M.Tirukh, Advocate for Appellant.
Shri T.A.Mirza, A.P.P. for Respondent No.1/State.
None 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 11th October 2019 passed by Judge, Special Court, Akola in Misc. Criminal Application No.693 of 2019 in connection with First Information Report No.405 of 2019 registered with respondent No.1 Police Station for the offences punishable under Sections 376(2)(n), 506 of the Indian Penal Code and under Section 3(1)(r),(s),(w) 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 from December 2018. It is further alleged in the report that the appellant continuously physically exploited the respondent No.2 from time to time. The appellant was arrested on 21st September 2019. The appellant, therefore, filed Misc. Criminal Application No. 693 of 2019 under Section 439 of the Code of Criminal Procedure seeking bail. The learned Special Judge, Akola by impugned order dated 11th October 2019 rejected the application. The appellant has therefore, filed present appeal before this Court. This Court on 8th November 2019 issued notice to the respondents and released the appellant on provisional bail subject to condition stated in the said order.

5. The respondent No.2 after service of notice has not appeared before this Court either personally or through Advocate. The appellant through his counsel has filed pursis before this Court on 17th January 2020 producing on record Marriage Certificate of the appellant with respondent No.2. As per the Marriage Certificate annexed to the pursis, it appears that marriage between the appellant and the respondent No.2 was performed on 15th December 2019.

6. Having considered the allegations in the First Information Report and the impugned order, we are satisfied that the order of grant of provisional bail deserves to be confirmed. In addition to the *prima-facie* case made out by the appellant, the fact of marriage is a circumstance which weighs in favour of the appellant for confirmation of the order of provisional bail. The appellant has stated that he is not involved in any crime/offence. The prosecution has not been able to point out that the appellant has misused the liberty granted to him by order dated 8th November 2019. It is also not pointed out that the custodial interrogation of the appellant is necessary.

7. We, therefore, pass the following order:

- i) The impugned order dated 11th October 2019 passed by Special Judge, Akola in Misc.Criminal Application No.693 of 2019 is quashed and set aside.

- ii) The order dated 8th November 2019, granting provisional bail to the appellant, is hereby confirmed on the same conditions stated in the said order.

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

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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