

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**64 CRIMINAL APPEAL NO.652 OF 2021  
WITH ACB/82/2021 IN APEAL/687/2020**

ASHOK SURYABHAN VIDHATE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Nilesh Ghanekar, Advocates for the appellant.  
Mr. S.S. Salgare, A.P.P. for respondent No. 1 – State.  
Ms. Ashlesha Kulkarni, Advocate for respondent No.2.

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CORAM : **V.K. JADHAV AND  
SANDIPKUMAR C. MORE, JJ.**

DATE : 08-02-2022.

**ORDER :**

1. The appellant – original accused is seeking regular bail in connection with Crime No. 730/2020 registered with CIDCO Police Station, Aurangabad for the offences punishable under Sections 376, 376(2) (n), 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989. His application with similar prayer came to be rejected by the learned Special Judge vide order dated 06.12.2021 below Exh.1 in Bail Application No. 2145 of 2021. In terms of the provisions of Section 14 (A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, this appeal has been preferred against

the order of rejection of bail by the Special Judge as referred above.

2. Learned Counsel for the appellant submits that by order dated 04.01.2021 this Court (Coram : Ravindra V. Ghuge and B.U. Debadwar, JJ.) in Criminal Appeal No. 687 of 2020 filed by the present appellant for anticipatory bail, granted anticipatory bail to him on certain conditions, particularly condition (b). By order dated 15<sup>th</sup> November 2021 this Court has allowed Application for Cancellation of Bail No.81 of 2021 filed by the State and cancelled the anticipatory bail granted to the appellant for non-compliance of condition (b) of the order dated 04.01.2021 in Criminal Application No.687 of 2020.

3. Learned Counsel for the appellant submits that in response to the order of cancellation of anticipatory bail by this Court dated 15<sup>th</sup> November 2021, the appellant has surrendered himself before the Special Court on 23<sup>rd</sup> November 2021. He was also granted P.C.R. for some period. Learned Counsel submits that at present charge-sheet has been submitted. Learned Counsel for the appellant has taken us through the allegations made in the complaint and also

the charge-sheet. Learned Counsel submits that the appellant and respondent No. 2 – informant both were in the business of selling clothes. In the year 2016 intimacy was developed between them and for near-about four years there were consensual relations between them. However, on 25.10.2020 since respondent No. 2 – informant has not responded to the demand made by the appellant for an amount of Rs. 5,00,000/-, the appellant allegedly threatened her about uploading the various video clippings of their sexual acts on the social networking sites. Learned Counsel submits that thus after four years of consensual relations, respondent No. 2 – informant has lodged the complaint. Learned Counsel submits that on the basis of these allegations the Court had granted anticipatory bail to the appellant. However, unfortunately the appellant has not abided by the conditions imposed by the Court, and therefore, his anticipatory bail came to be cancelled. Learned Counsel submits that the appellant has surrendered himself on his own before the Special Court immediately after the order of cancellation of his anticipatory bail, which itself indicates that there is no possibility of absconding even if the appellant is released on bail. Learned Counsel submits that now the investigation is over, charge-sheet has been submitted and as

such further detention of the appellant in jail is unwarranted and uncalled for. Learned Counsel for the appellant submits that the appellant is ready to abide by the condition not to enter in the Aurangabad city till the trial is over.

4. Learned Counsel for respondent No. 2 – informant submits that the appellant has not followed conditions imposed by this Court while releasing him on anticipatory bail. He has not produced his mobile handset used for snapping the photographs of respondent No. 2 – informant in some compromised pose. Learned Counsel submits that respondent No. 2 – informant apprehends the danger to her life if the appellant is released on bail.

5. Learned A.P.P. submits that there is strong prima facie case against the appellant. His anticipatory bail was cancelled due to the reason that he has not abided the conditions imposed by this Court. The appellant is not, thus, entitled for any sympathetic view. His bail is liable to be rejected.

6. By order dated 4<sup>th</sup> January 2021. (Coram : Ravindra V. Ghuge and B.U. Debadwar, JJ.) in Criminal

Appeal No. 687 of 2020 this Court released the appellant on anticipatory bail with certain conditions and condition (b) is important, which is reproduced herein below :

*“b) Both shall appear before the Station House Officer, Cidco Police Station, tomorrow i.e. on 05-01-2021 at 1.00 p.m. and surrender their mobile instruments for investigation”.*

The appellant has not surrendered his mobile instrument for investigation and consequently by order dated 15<sup>th</sup> November 2021 in Application for Cancellation of Bail No.81 of 2021, this Court has cancelled his anticipatory bail. However, it appears that on 24<sup>th</sup> November 2021 the appellant on his own surrendered before the Special Court and remanded to M.C.R. and also P.C.R. for some period. In view of the same, there is no possibility of absconding of the appellant. So far as the nature of the allegations is concerned, it appears that right from the year 2016 there were consensual relations and for near-about four years respondent No. 2 – informant has kept mum. Only in the year 2020 when their relations came to be strained on account of certain demand of money by the appellant to respondent No. 2 – informant, the complaint came to be lodged in the concerned police station about the commission

of rape.

7. We are, thus, inclined to release the appellant on regular bail. In the given set of allegations his detention in jail is uncalled for. There is no criminal history. So far as the apprehension of expressed by respondent No. 2 – informant is concerned, that can be taken care of by imposing certain conditions, such as, directing the appellant not to enter in Aurangabad city except attending the Court dates. Hence, the following order.

### **ORDER**

- (i) Criminal Appeal is hereby allowed.
- (ii) Appellant Ashok Suryabhan Vidhate be released on bail in connection with Crime No. 730/2020 (Sessions Case No.6/2022) registered with CIDCO Police Station, Aurangabad for the offences punishable under Sections 376, 376(2) (n), 504, 506 read with Section 34 of the Indian Penal Code and under Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, on furnishing P.B. of Rs. 20,000/- (Rupees Twenty Thousand with one solvent surety of the like amount, the following conditions :
  - (a) shall not tamper the evidence of prosecution in any manner.

- (b) Appellant Ashok Suryabhan Vidhate shall not enter within the limits of Aurangabad city till disposal of the case, except attending the Court dates.
- (iii) Criminal Appeal is accordingly disposed of.

**(SANDIPKUMAR C. MORE, J.)**

**(V.K. JADHAV, J.)**

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