

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 679 OF 2021

Gajanan s/o Sahebrao Bhombe,
age: 30 years, Occ: Agril.,
R/o Pimpaldhav, Tq. Bhokar,
District Nanded.

Appellant

Versus

01 The State of Maharashtra,
through Police Station Officer,
Bhokar Police Station,
Tq. Bhokar, District Nanded.

02 XYZ

Respondents

Mr. H. V. Patil, advocate for the appellant
Mr. S. W. Munde, APP for Respondent No.1.
Mr. D. K. Dagadkhair, advocate for Respondent No.2.

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

DATE : 16th February, 2022.

PC :

1 The appellant-accused is seeking regular bail in connection with Crime No. 225/2021, registered with Bhokar Police Station for the offence punishable under Sections 376 (2) (n), 504 and 506 of the Indian Penal Code and under Section 3(1) (w) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. His application with similar prayer came to be rejected vide order dated 04.12.2021, passed by the learned Additional Sessions Judge, Bhokar, below Exhibit-8 in Special Case No. 32/2021. In terms of the provisions

of Section 14A (2) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, this appeal has been preferred against the order of rejection of bail application by the Additional Sessions Judge, Bhokar, as mentioned above.

2 Respondent No.2 has alleged that the appellant has performed sexual intercourse with her against her will from time to time by giving her threats. On the basis of the complaint lodged by Respondent No.2-informant, aforesaid crime came to be registered and at present charge sheet has been submitted.

3 Learned Counsel for the appellant submits that the appellant came to be arrested in connection with the present crime on 06.07.2021 and since then he is in jail. There are no antecedents. The learned Counsel submits that as per the allegations made in the complaint, it appears that there were consensual relations between the appellant and Respondent No.2-informant. Respondent No.2-informant is a married woman having two children and those consensual relations remained continued for about one year. Learned Counsel for the appellant submits that Respondent No.2-informant, for a considerable period, has not disclosed about threats given by the appellant and commission of rape on her by the appellant to her family members. Even there is nothing on record to indicate that the appellant, on the basis of certain audio and video recordings in his mobile, has threatened

Respondent No.2-informant.

4 Learned Counsel for Respondent No.2 submits that the appellant is the owner of an auto-rickshaw and Respondent No.2 used to travel in the said auto-rickshaw as a passenger. The appellant has taken undue advantage of the same and further by giving threats to her, performed sexual intercourse with her. The learned Counsel submits that even the appellant has recorded telephonic conversation between them and used to threat her by referring the said conversation recorded in his mobile. Even he has snapped certain photographs in compromising position and started giving threats to Respondent No.2-informant on the basis of these photographs and kept sexual relations with her. The learned Counsel submits that on the basis of the complaint lodged by the husband and other family members of Respondent No.2, Gaopanchayat presided over by the Sarpanch was called and the appellant was given understanding not to give threats to Respondent No.2-informant. However, even thereafter the appellant has displayed photographs of Respondent No.2 on the whatsapp status and thus defamed Respondent No.2. The learned Counsel submits that even father of the appellant has threatened Respondent No.2 post incident and as such, Respondent No.2 apprehends danger to her life if the appellant is released on bail.

5 Learned A. P. P. submits that there is a strong case against

the appellant. He has committed rape on Respondent No.2 by giving threats on the basis of audio and video recordings. The learned A. P. P. submits that even though no objectionable recordings are found in the mobile, however, the mobile handset has been sent to a Laboratory at Nanded and report, in that regard, is awaited.

6 We have carefully gone through the allegations made in the complaint and we have also perused the charge sheet. It appears that Respondent No.2-informant is a married woman having two children. It prima facie appears that consensual relations between the appellant and Respondent No.2-informant came to be developed and even appellant and Respondent No.2 used to talk on mobile. It further appears that said relations remained continued for a considerable period but thereafter Respondent No.2 has lodged complaint about the threats given by the appellant. The appellant is in jail in connection with the present crime since 06.07.2021. Even no objectionable audio/video recordings or photographs were found in the mobile. However, after the report from the Lab at Nanded is received, it would be clear as to whether objectionable photographs and audio/video recordings are deleted by the appellant. However, considering the allegations made in the complaint, in our considered opinion, further detention of the appellant, in connection with present crime, is unwanted and uncalled for. There are no antecedents.

7 So far as apprehension expressed by the learned Counsel for Respondent No.2-informant about danger to the life of Respondent No.2 at the hands of the appellant is concerned, that will be taken care of by imposing certain conditions, such as restraining entry of the appellant within the limits of Bhokar town and Dhawari village, Tq. Bhokar.

8 Hence, the following order:

(i) Criminal Appeal is hereby allowed.

(ii) The appellant – Gajanan s/o Sahebrao Bhombe, in connection with Crime No. 225/2021, registered with Bhokar Police Station for the offence punishable under Sections 376 (2) (n), 504 and 506 of the Indian Penal Code and under Section 3(1) (w) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 vide Special Case No. 32 of 2021, pending before the Additional Sessions Judge, Bhokar, be released on bail on executing personal bond of Rs.25,000/- (Rs. Twenty five thousand) with one solvent surety for the like amount, on the following conditions:

(a) The appellant shall not tamper with the prosecution evidence in any manner and he shall not attempt to meet Respondent No.2-informant either personally or to establish contact with her on mobile, till disposal of Special Case No. 32 of 2021.

(b) The appellant shall not enter within the limits of Dhawari village, Tq. Bhokar as also Bhokar town till the trial is completed, except for attending the Court dates at Bhokar.

9 Criminal Appeal is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

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