

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO.405 OF 2022

1. Pandit Mukund Patil
2. Shobha @Pratibha Pandit Patil
3. Ramesh Kishor Jadhav

...Appellants
(Org. Accused No.2,3,4)

Versus

The State of Maharashtra and Anr.

...Respondents

Ms. Pravada Raut a/w Mr. Yogesh Rawool i/b Mr. Shailesh S. Redekar,
for the Appellants.

Ms. P. P. Shinde, A.P.P for the Respondent No.1 – State.

Ms. Ameeta Kuttikrishnan, Appointed Advocate for the Respondent
No.2.

***CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.***

DATE : 4th JULY 2022

P.C. :

1. Heard learned Counsel for the parties.
2. By this appeal, the appellants seek pre-arrest bail in
connection with C.R. No.102 of 2022, registered with the Arnala

Police Station, for the alleged offences punishable under Sections 376, 376 (2)(n) of the Indian Penal Code and under Section 3(1)(w)(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SCST Act').

3. Perused the papers. This Court vide order dated 21st April 2022 had granted interim protection to the appellants who are the parents and maternal uncle of accused No.1 - Swapnil Patil. According to the complainant, she was working in E-Seva Kendra run by the Maharashtra State at Waliv, Vasai-Virar, whereas she was residing at Ghateghar, Post Saiwan, Taluka Vasai, District Palghar. According to the complainant, she met accused No.1 - Swapnil Patil, during her commute to her workplace by bus. She has stated that accused No.1 - Swapnil Patil sent a friend request to her as he had seen her while travelling in the bus in 2018, which was accepted by her. She has stated that thereafter they used to regularly chat on the social media. According to the complainant, their friendship developed into a love affair and that she accompanied accused No.1 - Swapnil Patil to

Arnala Beach on his request. She has stated that she had physical relations with Swapnil, as he had promised to marry her. According to the complainant, the said relationship was going on for almost three years. She has stated that when she insisted accused No.1 - Swapnil to marry her, accused No.1 - Swapnil told her that he would discuss the same with his parents. She has stated that later on accused No.1 - Swapnil informed her that his parents were of the opinion that his elder brother should get married before him and till then, he should wait. The complainant has further alleged that on 24th February 2022 there was a meeting which was held between the family members of Swapnil Patil and the complainant and that they had initially agreed to get them married, however, they were of the opinion that the elder brother of Swapnil should get married before him. She has further alleged that in the second meeting which took place on 12th March 2022 between her family members and the appellants, the appellants disapproved the proposal of their marriage as she belonged to the schedule tribe. Pursuant thereto, a complaint was lodged as against the appellants and Swapnil. It is a matter of record that during the course

of investigation, original accused No. 1 – Swapnil was arrested and subsequently enlarged on bail.

4. This Court whilst granting interim protection to the appellants vide order dated 21st April 2022 has in para 10 , observed as under:-

“10. Upon perusal of the FIR, we are *prima facie* of the opinion that the Appellants had not humiliated the complainant by referring to her caste. Section 3(1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 reads as under:-

"3. Punishments for offences of atrocities - (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

.....

(w)(i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent;"

....."

5. We have heard the learned counsel for the parties and perused the complaint. After going through the FIR, we are *prima facie*, of the opinion that the said Section 3(1)(w)(i) of the SCST Act

will not be attracted in the present facts.

6. Considering the aforesaid, we confirm the interim relief granted by this Court vide order dated 21st April 2022, on the following terms and conditions :

ORDER

(i) In the event of the arrest, the appellants be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- each, with one or more sureties in the like amount.

7. The Appeal is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

V. G. BISHT, J.

REVATI MOHITE DERE, J.