

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 552 OF 2022**

Swapnil Dattaram Dhuri

... Appellant

V/s.

The State Of Maharashtra And Anr.

... Respondents

Mr. Ravi Dwivedi for Appellant.

Mr. S. S. Hulke APP, for Respondent No.1-State.

Mr. Sandeep D. Sherkhane for Respondent No.2.

Mr. S. S. Sawant, PSI, Nirmal Nagar Police Station, Mumbai.

**CORAM : A.S. GADKARI AND
MILIND N. JADHAV, JJ.****DATE : 7th OCTOBER, 2022.****PC. :**

1. Heard Mr. Dwivedi, learned Advocate for Appellant, Mr. Hulke, learned APP for State and Mr. Sherkhane, learned Advocate for Respondent No.2. Perused record of investigation.

2. By an Order dated 8th June, 2022 Appellant was granted interim relief and was directed to attend the Investigating Officer on stipulated dates.

3. Perusal of First Information Report (FIR) indicates that, the alleged abuses on caste were uttered by the mother of Appellant. FIR clearly discloses that, the relations between the Appellant and Respondent No.2 were consensual relations. That, Respondent No.2 also given consent for performing medical termination of pregnancy at Perna Nursing Home,

Santakruz East, Mumbai.

It is the contention of the Appellant that, after the Trial Court granted interim relief in his favour on 8th February, 2022, Respondent No.2 recorded supplementary statement thereby attributing abuses on her caste. Record of investigation further indicates that, though in the FIR it is not mentioned that, anybody witnessed the alleged abuses by the Appellant on the caste of Respondent No.2, in her supplementary statement the same has been stated. Name of an eye witness to the alleged abuses has also been given in the supplementary statement for the first time.

4. Perusal of record of investigation indicates that, there are material improvements made by Respondent No.2 in her supplementary statement dated 21st March, 2022. Learned APP on instructions submitted that, in pursuance of Order dated 8th June, 2022 Petitioner has attended the Investigating Officer and has co-operated in the process of investigation.

5. In view thereof, we are of the considered opinion that, the Appellant can be protected by pre-arrest bail as well.

Interim relief granted by Order dated 8th June, 2022 is hereby confirmed.

However, Appellant is directed to attend the Investigating Officer as and when called for between 10.00 am to 12.00 noon upon receipt of notice in writing specifying date for the purpose of investigation of the present

crime, till submission of charge-sheet.

6. Impugned Order dated 12th May, 2022 passed in Anticipatory Bail Application SC/ST No. 258 of 2022 is set aside and Appeal is allowed in the aforesaid terms.

[MILIND N. JADHAV, J.]

[A.S. GADKARI, J.]