

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.725 OF 2021

Suresh Hanumant Chavan : Appellant.
Versus
The State of Maharashtra and anr. : Respondents.

Mr. Rupesh Zade for the Appellant.
Mr. V B Konde-Deshmukh, APP for the Respondent No.1/State.

CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ

DATE : 12th April 2022

P.C.

1 By this Appeal the Appellant seeks following substantial relief :-

(a) Appeal may be allowed and the Order dated 08/06/2021 passed by the Ld. Addl. Sessions Judge, Baramati-2 below Exhibit 4 in Special Session Case No.87 of 2021 pending on the file of the Additional Session Judge-2 Baramati may be quashed and set aside and the Appellant may kindly be released on bail on such terms and conditions which may deem fit.”

2 By the impugned order, the Trial Court has rejected the second bail application filed by the Appellant in Crime No.235/2021 registered at Baramati Taluka Police Station, Dist. Pune.for the offences punishable under Sections 376(2)(h) of the Indian Penal Code and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2015

3 Heard the learned counsel appearing for the Appellant and the learned APP appearing for the Respondent No.1/State.

4 The learned counsel appearing for the Appellant invites our attention to the contents of the FIR so also to the statement of the witnesses and the medical evidence, and submits that, the incident as alleged did not occur. He submits that the entire investigation has already been completed and charge-sheet has been filed and there is no need to of further custody of the Appellant. The learned counsel for the Appellant also invites our attention to the affidavit filed by the 2nd Respondent i.e. the victim and submits that she has stated in her affidavit that the alleged incident did not taken place and the FIR has been lodged out of misunderstanding. He, therefore, submits that the Appellant deserves to be enlarged on bail during the pendency of the trial.

5 On the other hand, the learned APP appearing for the Respondent No.1/State invites our attention to the contents of the FIR so also to the statement of victim, the statements of other witnesses and the medial evidence, and submits that the offence is serious one and the victim might have been pressurized to change her version. He, therefore, submits that the Appellant is not entitled to be enlarged on bail and the Appeal may be dismissed.

6 We have considered the submissions of the learned counsel for the

Appellant, and the learned APP for the Respondent No.1/State. With their able assistance we have carefully perused the contents of the FIR, the statement of victim recorded on 15/04/2021, as also the statements of witnesses and the medical evidence. It is abundantly clear that the victim has in detail stated in her FIR about the manner in which the incident had taken place and she was assaulted by the Appellant. We have seen the medical evidence which prima facie corroborates the version of the victim. Statement of victim shows that she has sustained injury in the alleged incident. It cannot be ignored that at the relevant time and date the victim was pregnant. The victim is from Paradhi community i.e. belongs to ST.

7 So far as affidavit of the 2nd Respondent i.e. the victim is concerned, we are not prepared to accept such an affidavit. The said affidavit might have been filed out of compulsion. Her statement and medical evidence cannot be ignored. Though the alleged offence is registered against the individual, considering the nature and seriousness of the offence, the said offence is against the society.

8 In that view of the matter, no case is made out to entertain the present Appeal. Hence the Appeal stands dismissed.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]