

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

CRIMINAL APPEAL NO.769 OF 2022

Shivshankar Appasaheb Sagare Appellant
Vs.
The State of Maharashtra and Anr. Respondents

Mr. Vikrant V. Phatate for the Appellant.
Mrs. M. M. Deshmukh, APP for Respondent-State.
Ms. Shraddha Sawant appointed for Respondent No.2.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 25th AUGUST 2022.

P. C.

1. Heard learned counsel for the parties.
2. By this appeal, preferred under section 14(A) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Amended Act, 2015, the appellant seeks his enlargement on bail in connection with C. R. No.338 of 2022 registered with Vijapur Naka Police Station, Solapur, for the alleged offences punishable under sections 376(2)(n), 323, 506 of Indian Penal Code and under sections 3(2) (v), 3(2) (va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Amended Act, 2015.

3. Learned counsel for the appellant submits that a perusal of the FIR shows that the prosecutrix aged 32 years, a married woman with two children was in a consensual relationship with the appellant, aged 21 years. He further submits that a false case has been filed against the appellant, only after the prosecutrix's husband learnt of their affair and had after seeing the photographs of the prosecutrix and the appellant, in an inappropriate condition on his friend's mobile, questioned the prosecutrix of the same.

4. Learned APP as well as the learned counsel for respondent No.2 opposed the grant of bail.

5. Perused papers. A perusal of the statement of the prosecutrix aged 33 years, which is at page no.18 of the appeal shows that she was in touch with the appellant since July 2021 on Whatsapp. It appears that the prosecutrix and the appellant were exchanging messages with each other and that the appellant was in love with the prosecutrix. It further appears that appellant would visit the house of the prosecutrix, where they had physical relations. The statement of the prosecutrix further shows that on 28/6/2022,

when her husband, came home, he questioned her about her relations with the appellant. He further disclosed to her, that he had seen her photographs with the appellant in an inappropriate condition on his friend's mobile, pursuant to which there was a quarrel between them. It appears that after the quarrel, the prosecutrix's husband left the prosecutrix, at her parents house. The FIR appears to have been lodged only after the prosecutrix's husband learnt of the same.

6. *Prima facie*, having regard to the contents of the statement of the prosecutrix, it appears that the relations between the prosecutrix and the appellant were consensual. The appellant is a college going student, who is in custody since his arrest on 4/7/2022.

7. Accordingly, we pass the following order :

ORDER

- (i) The Appeal is allowed;
- (ii) The impugned order dated 19/7/2022 passed by the learned Special Court, Solapur in Criminal Bail Application

No.994/2022 is quashed and set aside.

(iii) The Appellant be released on cash bail of Rs.15,000/- for a period of 6 weeks;

(iv) The Appellant shall within the said period of 6 weeks, furnish PR bond in the sum of Rs.15,000/- with one or two sureties in the like amount;

(v) The Appellant shall keep the trial Court and the concerned Police Station informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

(vi) The Appellant to cooperate in the conduct of the trial.

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

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

SHARMILA U. DESHMUKH, J. REVATI MOHITE DERE, J.