

Anand

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

CRIMINAL APPEAL NO. 891 OF 2021

Dinesh Bhaidas Desale

.Appellant

Vs.

The State of Maharashtra & anr.

.Respondents

Mr. Sanjeev Kadam a/w Mr. Mayur Sanap & Mr. Pratik Deshmukh i/b. Mr. Prashant Raul, Advocate, for the Appellant

Ms M. M. Deshmukh, APP, for the Respondent No. 1 – State

Mr. Gajendra Jadhav, Advocate, for the Respondent No. 2

Ms S. B. Kapile, ACP, Mulund Division, Mumbai present

CORAM : N. R. BORKAR, J.

DATE : 19.09.2022

P. C.

. This appeal is filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (“SCST Act” for short) against an order passed by learned Additional Sessions Court, Mumbai dated 21.10.2021 in ABA No. 1349 of 2021.

2. By the order impugned, the trial Court rejected the Anticipatory Bail Application filed by the present Appellant, who is accused in C.R. No. 695 of 2021 registered

with the Mulund Police Station for the offences punishable under Sections 354, 354(A), 354(D) of the Indian Penal Code and under Sections 3(1)(w)(i) and (ii) and Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. On 29.10.2021, this Court passed the following order:

“ Heard. Mr. Kadam, learned Counsel for the Appellant and Mr. Patil, learned Prosecutor for the State.

1. It is an appeal under Section 14 A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act for short).

2. Issue notice to the Respondent No. 2 returnable on 17th November, 2021. In addition to Court notice, concerned Police Station shall serve a copy of this application on Respondent No. 2 with an intimation that appeal shall be heard on 17th November, 2021.

3. Prosecution case in brief is that, Complainant and the Appellant are public servants, working in a Forest Department of State of Maharashtra. Appellant is Range Forest Officer; whereas the Complainant is Forest Guard. Pursuant to complaint dated 18th June, 2021, inquiry was held against the Appellant in accordance with the provisions of the Sexual Harassment of

Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Appellant was exonerated of all the charges.

4. Perused the FIR dated 23rd June, 2021. Complainant-Victim alleged that she was sexually abused by the Appellant (her superior officer) at workplace in October, 2019 and thereafter on 12th February, 2021. She did not report incidents to the State of Maharashtra, nor she filed complaint against the Appellant. It appears on 5th March, 2021, one Mahale, also a public servant, abused the Complainant, while on duty. Whereafter, Complainant filed the report against Mahale. After which, Crime No. 191/2021 was registered against Mahale under Sections 506, 509 of the Indian Penal Code, 1860. Simultaneously, she filed a complaint against Mahale with the superior officers. As such, inquiry was held against Mahale and he was suspended. Complainant alleged two forest lady guards were pressurizing her to withdraw the complaint against Mahale. Whereafter, she lodged the complaint against two forest lady guards, namely Jayashree Kamble and Savita Kamble on 8th April, 2021 under Section 506 of IPC. She would allege after lodging the complaint against Mahale, the Appellant had assigned her duties at odd hours. And was harassing her. In the fact situation, Complainant reported the incident of sexual abuses allegedly caused by the Appellant in October, 2019 and February, 2021; whereupon Crime in question came to be registered against him in the year 2021. It is not borne out from the complaint, as to why the Complainant did not report the incident of sexual abuses,

although the alleged incident had occurred in October, 2019 and February, 2021. Prima-facie a case is made out for granting the ad-interim protection to the Appellant. Even otherwise, pending application, the learned Sessions Judge had granted interim protection to the Appellant. Thus, in the event of arrest of Appellant in Crime No. 695/2021 registered with Mulund Police Station, he shall be released on bail on executing P. R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

5. Appellant shall join the investigation as and when called.

6. Stand over to 17th December, 2021 for further consideration.”

4. The learned APP on instructions submits that the State has filed ‘B’ Summary.

5. The learned Counsel for the Appellant submits that the said Summary is yet to be accepted by the concerned Court.

6. Considering the facts and circumstances, liberty is granted to the Appellant to take appropriate steps, if ‘B’ Summary submitted by the Investigating Officer is not

accepted by the concerned Court. To enable the Appellant to take appropriate steps the interim order dated 29.10.2021 shall continue to operate till the decision on 'B' Summary and in the event 'B' Summary is not accepted, then for further period of three weeks from the date of passing of such order by the concerned Court.

7. The Criminal Appeal is disposed of in aforesaid terms.

(N. R. BORKAR, J.)