

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO.133/2022

Sopan Digambar Chouke,
aged about 28 years, Occ. Labourer,
r/o Pedka Patonda, Tq. Khamgaon,
Dist. Buldhana.

...APPELLANT

...VERSUS...

1. State of Maharashtra, through
Police Station Officer,
Khamgaon City Police Station,
Khamgaon, Dist. Buldhana.
2. XYX (Victim)
Complainant/informant in
Crime No. 121/2020 registered
with Police Station Khamgaon City,
Khamgaon, Dist. Buldhana.

...RESPONDENTS

Mr. A. D. Bhate, Advocate for appellant.
Mr. S. M. Ghodeswar, A.P.P. for respondent no.1-State.

CORAM:- V. M. DESHPANDE &
AMIT B. BORKAR, J.
DATED :- 28.04.2022.

ORAL JUDGMENT (Per: Amit B. Borkar, J.)

1. By this appeal under section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, challenging the order dated 29.01.2022 passed by Special Judge,

Khamgaon, in Special Case No.156/2021 in relation to Crime No.121/2020 registered with Police Station, Khamgaon City for an offence punishable under Sections 376 (2) (n), 312, 506, 420, 465, 468, 471 of the Indian Penal Code and Sections 3 (1) (w) (i) and 3 (1) (w) (ii), 3(2) (5), 3(2) (va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

2. First Information Report came to be registered against the appellant with an accusation that the appellant and respondent no.2 had a repeated sexual intercourse on the basis of promise of marriage. It appears that relations between appellant and respondent no.2 were from July-2019 till March-2020.

The appellant was arrested on 29.10.2021. The investigating agency has completed the investigation and filed the charge-sheet.

3. The appellant applied before learned Special Court seeking bail, which has been rejected by the impugned order. Therefore, the appellant filed the present appeal challenging the order of rejection of his application under Section 439 of the Code of Criminal Procedure.

4. This Court, on 07.03.2022 issued notices to the respondent. Notice report shows that respondent no.2-victim has been served. It appears that in spite of service, respondent no.2 is not appearing either in person or through her advocate.

5. We have perused the material on record in the form of charge-sheet. We, prima facie, are satisfied that since the investigation is complete and charge-sheet is filed against the appellant, custodial presence of the appellant is not necessary. Hence, the impugned order rejecting regular bail to the appellant deserves to be set aside. Hence, we pass the following order.

ORDER

(i) The appeal is allowed.

(ii) Impugned order dated 29.01.2022 passed by learned Special Judge, Khamgaon, in Special Case No.156/2021 is hereby quashed and set aside.

(iii) Appellant-Sopan Digambar Chouke shall be released on bail in connection with Crime No.121/2020 registered with Police Station, Khamgaon City for an offence punishable under Sections 376 (2) (n), 312, 506, 420, 465, 468, 471 of the Indian Penal Code and Sections 3 (1) (w) (i) and 3 (1) (w) (ii), 3(2) (5), 3(2)

(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, on furnishing P.R. Bond in the sum of Rs.5,000/- with one solvent surety in the like amount.

(iv) The appellant shall remain personally present before the learned Special Judge on each and every date.

(v) The appellant shall not cause any act which will influence the witnesses.

(AMIT B. BORKAR, J.)

(V. M. DESHPANDE, J.)

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