

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

CRIMINAL APPEAL NO. 144 OF 2022.

Shrikrushna s/o. Shriram Tale,
Aged 30 years, Occ.: Labourer,
R/o. At Malkapur Pangra,
Tq. Sindkhed Raja, Dist. Buldhana.

.... **APPELLANT**
(IN JAIL)

----- **VERSUS** -----

1. State of Maharashtra,
Through P. S.O., Sakharkherda,
Tq. Sindkhed Raja, Distt.: Buldhana.

2. XYZ, Victim (Informant)
in the Crime No.363/2021
registered before P. S. O., Sakharkherda,
Distt. Buldhana.

.... **RESPONDENTS**

Shri S. A. Choudhari, Advocate for the Appellant.
Shri T. A. Mirza, A.P.P. for the Respondent No.1/State.

CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.

DATE : 12.04.2022.

ORAL JUDGMENT : [PER : V. M. DESHPANDE, J.]

1. Heard.

2. **ADMIT.**

3. Shri T. A. Mirza, learned Additional Public Prosecutor in view of the written instructions given to him by Assistant Police Inspector, Police Station Sakharkherda stated before the Court that

notice of this appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Atrocities Act, 1989') is duly served upon the respondent – victim. In spite of the service, nobody is appearing on behalf of the respondent No.2 neither victim is personally present.

4. This appeal is filed by the appellant since his application under Section 439 of the Code of Criminal Procedure was rejected by the learned Trial Court. This appeal is under Section 14-A of the Atrocities Act, 1989. The respondent No.2 is the victim. From the report, it is clear that she is aged about 26 years and a married woman having one son and one daughter. She lodged First Information Report against the appellant and his wife Savitri and his mother Kushiwantabai. The allegations against the appellant is that he has committed forcible sexual intercourse upon her on 03.10.2021 without her consent. The investigation is complete, charge-sheet is already filed. The appellant is in jail since 18.11.2021.

5. The entire charge-sheet is placed on record. *Prima facie*, the C.D.R. report which shows that the appellant and the victim were in touch with each other. In that view of the matter and in view of the fact that the custodial presence is not at all necessary

in view of the filing of the charge-sheet. Hence, we pass the following order :

i] The appeal is allowed.

ii] The order passed by the learned Additional Sessions Judge, Mehkar, District Buldana below Exh.14 dated 03.02.2022 is hereby quashed and set aside.

iii] The appellant Shrikrushna s/o. Shriram Tale be released on bail on his executing P. R. Bond of Rs.5000/- (Rs. Five Thousand Only) with one solvent surety in the like amount.

iv] The appellant shall mark his presence by attending Police Station Sakharkherda, Distt. Buldhana once in a month preferably on last Tuesday of every month until culmination of trial.

6. With these observations, the appeal is disposed of.

7. Pending application(s), if any, stand(s) disposed of accordingly.

JUDGE

JUDGE