

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

CRIMINAL APPEAL NO. 214 OF 2022.

Anil Krushnaji Vani,
Aged about : 32 years, Occu.: Self Employed,
R/o. Vaishali Nagar Ward No.3, Bramhani,
Tah. Kalmeshwar, Dist. : Nagpur. **APPELLANT**

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

1. The State of Maharashtra,
Through Police Station Officer,
Kalmeshwar Police Station,
Nagpur, Dist. Nagpur.
2. XYZ – Complainant/Victim,
(Crime No.118/2022),
Kalmeshwar Police Station,
Tah. Kalmeshwar, Dist. Nagpur **RESPONDENTS**

Shri S. K. Bhandarkar, Advocate for the Appellant.
Shri S. S. Doifode, A.P.P. for the Respondent/State.
Ms Sonali Khobragade, Advocate (Appointed) for the Respondent No.2.

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

DATE : 04.05.2022.

JUDGMENT : [PER : AMIT BORKAR, J.]

1. Heard.
2. **ADMIT.**
3. By this appeal under Section 14-A of the Schedule
Castes and the Scheduled Tribes (Prevention of Atrocities) Act,
1989 the appellant is challenging order dated 29.03.2022
passed by the Special Court, the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, Nagpur rejecting application under Section 439 of the Code of Criminal Procedure arising in pursuance of Crime No.118/2022 registered for the offences punishable under Sections 376(2)(n), 506 of the Indian Penal Code and Sections 3(2)(v), 3(2)(va) and 3(1)(w)(i)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

4. The First Information Report came to be registered against the appellant with the accusations that the appellant aged about 32 years developed love relationship with the respondent No.2-complainant aged about 25 years. On 25.06.2021 the appellant took the complainant for going outside and brought her in the Lodge at MIDC, Kalmeshwar. He had forcible sexual intercourse with the respondent No.2 on promise of performing marriage with her. It is alleged that thereafter, 3 to 4 times, the appellant and the respondent No.2 visited at Kalmeshwar and had sexual intercourse with her. When the appellant refused to marry the respondent No.2, resulted in registration of the First Information Report.

5. The appellant has therefore filed an application for bail before the learned Special Court, which is rejected by the

impugned order dated 29.03.2022. The appellant has therefore, filed present appeal.

6. This Court on 08.04.2022 issued notice to the respondents. The respondent No.2 was served. She appeared before this Court personally on 27.04.2022. She stated that she has no financial capacity to engage services of an Advocate. Therefore, this Court appointed Ms Sonali Khobragade, learned Advocate to represent the respondent No.2. In pursuance of the said, the respondent No.2 has filed reply stating that the physical relationship between the appellant and the respondent No.2 was for a period of two years, resulting in two months pregnancy. Thereafter, the respondent No.2 aborted the pregnancy. It is stated that in view of refusal of the appellant to marry, the First Information Report came to be registered.

7. We have carefully considered the allegations in the First Information Report, the impugned order and replies filed by the respondents. From the perusal of the material on record in the form of First Information Report and replies filed by the respondents, *prima facie*, it appears that the relationship between respondent No.2 and appellant was spread over two years. Appellant and respondent No.2 had repeated sexual intercourse. *Prima facie*, it appears that the sexual relationship

between the appellant and the respondent No.2 was consensual in nature.

8. The learned A.PP stated that investigation is almost over. In the light of the allegations levelled, custodial interrogation of appellant is not warranted. It is however expected that the appellant shall co-operate with the investigation. We therefore, pass following order :

ORDER

- i] The impugned order dated 29.03.2022 passed by the learned Special Judge, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, Nagpur in Criminal Bail Application No.694/2022 is quashed and set aside.
- ii] The appellant Anil Krushnaji Vani, shall be released on bail in connection with Crime No.118/2022 registered with the respondent No.1 – Police Station on furnishing P. R. Bond of Rs.5000/- (Rs. Five Thousand Only) with one solvent surety in the like amount.
- iii] The appellant shall attend the concerned Police Station as and when called for.

- iv] The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to the Court or to any Police Officer and shall not tamper with the evidence.

The appeal is allowed in the above terms.

Ms. Sonali Khobragade, learned Advocate being appointed to represent the respondent No.2 shall be entitled to professional fees, which quantified at Rs. 3,500/-.

JUDGE

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