

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

CRIMINAL APPEAL NO. 555 OF 2022.

APPELLANT : Pramod s/o Balaji Marshettiwar, Age 37 years, Occupation – Service, resident of Deva (BU), Post Gowardhan, Tahsil Pombhurna, District Chandrapur.

VERSUS

RESPONDENTS : 1.State of Maharashtra, through Police Station Officer, Police Station, Ramnagar, District Chandrapur.

2.Victim/Complainant XYZ, Crime No.986 of 2021, Police Station, Ramnagar, District Chandrapur.

Shri A.C. Jaltare, Advocate for the Appellant.
Shri H.D. Dubey, A.P.P. for Respondent No.1.
Ms.S. Saware, Advocate [Appointed] for Respondent No.2.

CORAM : VINAY JOSHI AND
MRS.VRUSHALI V. JOSHI, JJ.

DATE : OCTOBER 14, 2022.

ORAL JUDGMENT : (PER VINAY JOSHI, J)

Challenge in this appeal is to the order dated 09.02.2022 passed by the Additional Sessions Judge, Chandrapur below Exh.12 in Special [SC/ST] Case No.149/2021, by which the regular bail application has been rejected.

2. Considering the controversy involved, and by consent of the learned Counsel appearing for the respective parties, the appeal is taken up for final disposal.

Admit.

3. At the instance of a report lodged by a lady aged 24 years, offence was registered vide Crime No.986/2021 for the offence punishable under Section 420, 376[2][n], 504, 506 of the Indian Penal Code, and at later stage provisions of Section 3[2][v], [va] of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as “the Atrocities Act” for short), have been invoked. It is the case of the prosecution in nutshell that the accused who was serving in Zilla

Parishad, Chandrapur has assured the victim lady for a job and on said pretext extracted money, as well as sexually abused her. The informant lady has stated that she got acquainted with the accused, who was in service. During conversation, the accused expressed his desire to secure a job for her. During the period from 26.07.2021 to 17.08.2021, she has paid Rs.2 lakhs to the accused for arranging a job. The victim further stated that the accused used to torture her by making emotional statements. She stated that on 02.09.2021, the accused took her to a lodging house and sexually abused her, therefore, the report.

4. The learned counsel for the appellant would primarily submit that there were financial transaction in between accused and mother of victim lady. The entire dispute arose out of financial dispute which was coloured as a false promise to secure a job. It is argued that the accused was in Zilla Parishad service and out of courtesy, he was looking job for the victim, however, money was not extracted for securing job. It is submitted that at the most it is a case of consensual sex, which has no relevance with the effort of accused of looking job for the lady. He has

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submitted that the allegations leveled in the report are quite vague. Had it been, the fact that there were sexual relations under false pretext, then the victim who is a grown up lady, would have exposed the same at the earliest.

5. The learned Counsel for the appellant took me through various telephonic chats, and screen shots, (part of the charge sheet), which never conveys that there was forcible sexual relation. He states that the investigation is complete and there is no purpose in keeping the appellant behind bars. The learned counsel expressed that the appellant is ready and willing to deposit an amount of Rs.1 lakh to show his bonafides. Moreover, he is ready to stay out of Chandrapur district.

6. The learned A.P.P. as well as the learned Counsel for respondent no.2/informant, strongly opposed the prayer for grant of bail. It is submitted that under false pretext of providing job, the accused has sexually abused the poor vulnerable lady. There is ample evidence supporting the allegations, therefore, it is not a fit case for grant of bail. It is also submitted that the

accused would tamper with the prosecution evidence, if released on bail.

7. Undisputedly, the victim is 24 years old grown up lady. Her report itself gives prominence to the monetary transaction between the parties. In the later part, she stated the story of sexual relations, probably she succumbed to the wishes of accused under hope of getting job. The prosecution has tendered on record copy of register of lodging house to indicate that on 02.09.2021, both stayed together. Copy of the first information report also bears a hand written addition that they went to lodging house on a particular date in accordance with the register. As a matter of fact, the accused in his application itself conceded that they had physical relations, but, it was of a consensual nature.

8. The prosecution has tendered voluminous record pertaining to mobile communication and whats-app chat. The victim lady herself has recorded her conversation with the accused for several days, as well as produced screen shots of their whats-app exchanges.

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9. With the assistance of the learned counsel of the respective parties, we have perused most of the conversation, which only indicates the monetary transaction and nothing else. We have been particularly taken through the whats-app exchanges of date 03.09.2021, i.e. on the following day of the incident of lodging house, which never gives a sense that on the earlier day the victim was forcibly ravished. Prima facie, the entire transaction shows that there were long standing monetary transaction in between the parties and nothing else. If the victim was sexually abused under false pretext, then there must have been communication which can at least give some idea in that regard.

10. The accused is in jail for last one year. The investigation is complete and charge sheet has been filed. The victim is a grown up lady. It is a matter of trial to establish that under false promise, she has been sexually abused. Needless to mention that the above observations are made only for the

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purpose of deciding the present appeal, which will have no implication while deciding the matter on merits.

11. Having regard to above facts and circumstances, further detention of the accused is not necessary. Certain stringent conditions would suffice the purpose. The accused has shown his willingness to deposit an amount of Rs.1 lakh. In view of above, the appeal needs to be allowed, hence the following order.

ORDER.

- (i) Criminal Appeal is allowed.
- (ii) The impugned order dated 09.02.2022 passed by the Additional Sessions Judge, Chandrapur below Exh. 12 in Special (SC/ST) Case No.149/2021, is hereby quashed and set aside.
- (iii) The appellant Pramod Balaji Marshettiwar is released on bail in connection with Crime No.186/2021 registered with Police Station Ramnagar, District Chandrapur for the offence punishable under Sections 420, 376[2][n], 504, 506 of the Indian Penal Code, and Section 3[2][v], [va] of the Scheduled Castes

and Scheduled Tribes (Prevention of Atrocities) Act, on his executing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

- (iv) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (v) The appellant shall not enter into the territorial jurisdiction of entire Chandrapur City for the period of 6 months from today.
- (vi) The appellant shall deposit an amount of Rs. 1 lakh with the trial Court, as per his voluntarily undertaking.
- (vii) The release warrant shall be issued only after ensuring deposit of this amount of Rs. 1 lakh.
- (viii) Fees of the appointed counsel for respondent no.2 be paid as per Rules.

JUDGE

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