

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.447 OF 2023

**MAHADEV SUKHDEV SURWASE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr. Mahesh P. Kale
APP for Respondent No.1 : Mr. K. S. Patil
Advocate for respondent No.2 : Mr. M. B. Sandanshiv

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CORAM : S. G. MEHARE, J.

DATE : 30.03.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State and the learned counsel for respondent No.2/victim.
2. The victim in her statement has admitted that she had affair with the applicant. However, in her first statement she has stated that the applicant took her forcibly from her home, kept her for three days in a field and then took her to Pune. She alleged that applicant did sex forcibly with her in the field. However, in her statement before the Medical Officer she state nothing about sex allegedly done by the applicant with her in the field. On the contrary, she stated that during

her stay with him at Pune the applicant did no sex with her. The conduct of the eye witness appears doubtful. She was around 16 years old at the time of the incident. As far as offences pertaining to Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are concerned, there is no iota of evidence that applicant had an intention any time to show the victim down in the eye of law in the public place. It is a case of love affair. The medical evidence also does not specifically support the prosecution. Possibility of caste discrimination in lodging the report cannot be denied. Considering the facts in toto, the Court is of the view that further detention of the applicant would serve no purpose. However, to guard apprehension of the victim, certain conditions may be imposed. Hence, the following order :-

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant Mahadev Sukhdev Surwase be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.216 of 2022, registered with Police Station Dindrud, District Beed, for the offences punishable under Section 363, 376 (3), 376 (2) (n) of the Indian

Penal Code, under Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and under Sections 3(2)(v), 3 (2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) The applicant shall not contact the victim in any mode or manner till the conclusion of the trial.
- c) The applicant shall stay away from his village for three months from the date of his release.

(S. G. MEHARE)
JUDGE