

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 427 OF 2023

Dattatraya Balasaheb Bidkar,
Age : 48 Years, Occu: Labour,
R/o. : At Akhegaon, Tq. Shevgaon,
Dist. Ahmednagar.

... Appellant

Versus

1. The State of Maharashtra
Through: Pathardi Police Station,
Ahmednagar.

2. X.Y.Z.

... Respondents

.....
Mr. Rohit Prashant Patwardhan, Advocate for the Appellant
Mr. S. J. Salgare, APP for Respondent No.1
Mr. Prashant R. Nangare, Advocate for Respondent No.2
.....

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 22.06.2023

JUDGMENT [ABHAY S. WAGHWASE, J.] :

1. Admit.

2. Vide instant appeal, by invoking Section 14-A(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short, "Atrocities Act"], the appellant herein is seeking grant of regular bail in crime no. 1093 of 2022 registered at Pathardi Police Station, District Ahmednagar, for the offences punishable under

Sections 376, 452, 324, 323, 506 of the Indian Penal Code [IPC] and under Sections 3(1)(r), 3(1)(s), 3(1)(w)(i)(ii), 3(2)(va), 3(2)(5) of the Atrocities Act.

3. Pressing for relief, learned counsel would submit that report is apparently false and afterthought and is rather an attempt to blackmail appellant. He pointed out that informant is a married lady. There was love affair between appellant and her. When husband learnt about their affair, to save herself, false allegations are leveled. He would point out that, in fact informant herself had called appellant to her house and she also states about it in her complaint itself. It is submitted that whatever act took place was consensual one and not forcible one as alleged. That, there is no witness seeing accused entering the house or coming out. That, now investigation is over and even charge sheet is filed. Therefore, no purpose would be served whatsoever by detaining appellant in jail. According to him, it would take long time for trial to commence and conclude. Therefore, for all above reasons, learned counsel would pray for bail.

4. While opposing the bail appeal, learned APP took us through the FIR and would submit that though victim informant borrowed money for her treatment, accused without calling had entered her

house and finding her alone in her house which was in isolated place, took opportunity and had forcible sexual intercourse with her. Report was lodged on the same day. Victim belongs to Scheduled Tribe. Crime is registered under Atrocities Act and therefore, considering the gravity and seriousness of the offence, he would submit that appellant does not deserve relief as prayed.

5. In the light of above submissions, we have gone through the papers placed before us. It seems that victim informant is married lady and a mother too. She has informed police that on 14.11.2022, on account of ill health she had stayed back in the house and her husband had been for sugarcane cutting. She had demanded Rs.500/- from appellant with whom she claims to be acquainted with. According to her, around 3.00 p.m. accused came. According to her, when he gave her call, she went out of her hut. According to her, she requested for money and asked him to go, but he entered her house saying that he would not give her money outside and saying so, he took her inside the hut. He sat near her and then said to her that she was alone and further asked her to let him sleep with her. Thereafter, he forced himself upon her after hitting her with sugarcane. According to her, she raised hue and cry but no one came to her rescue. She further informed that she was threatened with life. After

return of her husband, she informed him and thereafter approached police station.

6. In the backdrop of above complaint, appellant seems to be arrested on 14.11.2022 and since then he is behind bars. Investigating machinery seems to have referred informant to medical examination. Statements of relevant witnesses are also recorded. Exercise of drawing spot panchanama, examination of accused, collection of caste certificate is already done by investigating machinery. Therefore, virtually investigation is complete. Learned APP could not point out as to what further investigation is to be done and for what purpose custody of appellant is still required.

7. Learned counsel for respondent victim opposed relief on the ground that he is likely to misuse the liberty and he is likely to tamper with the witnesses and even threaten the informant.

8. In our opinion, as to why further custody of appellant is required is not satisfactorily shown to us. Apprehension expressed by respondent victim can be taken care of by imposing stringent conditions. Therefore, when investigation is over and when no purpose would be served by further detaining the appellant, taking

into consideration current facts and circumstances, we are inclined to grant relief by passing following order :

ORDER

- I. Appeal stands allowed.
- II. The order dated 10.04.2023 passed by learned Additional Sessions Judge No.3-cum-Special Judge, Ahmednagar, below Exhibit 3 in Special Case No. 49/2023 is hereby quashed and set aside.
- III. The said application stands allowed.
- IV. Appellant be released on P.R. and S.B. of Rs.15,000/-.
- V. Appellant shall not enter the vicinity of Kalaspimpri, Taluka Pathardi, District Ahmednagar till the trial is over.
- VI. Appellant shall abide with all conditions and refrain from tampering the prosecution evidence in any manner.
- VII. Bail before the concerned Special Judge.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]