

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

CRIMINAL APPEAL NO.720 OF 2023

RAMPRASAD S/O KISHANRAO SAWANT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. M. P. Kale, Advocate for the appellant
Mr. S. P. Sonpawale, APP for the respondent/State
Ms. Tanvi Jadhav, Advocate for respondent No.2 (appointed)

CORAM : R. M. JOSHI, J.
RESERVED ON : 14/09/2023
PRONOUNCED ON : 25/09/2023

P.C. :-

1. This appeal is against order dated 24th July, 2023 passed in Special Case (Atrocity) No. 65/2023 below Exhibit 9 rejecting application for bail under Section 439 of Criminal Procedure Code seeking bail in connection with Crime No. 131/2023 registered with New Mondha Police Station, Dist. Parbhani for the offences punishable under Sections 376, 376(2) (n), 506, 384, 385 of Indian Penal Code (for short 'IPC') and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Act').

2. Informant/victim claims that she belongs to scheduled caste community. It is her contention that in December, 2022 she came across the Instagram account in the name of Pranav Deshmukh. He sent friend

request to her which was accepted. Thereafter they were exchanging messages. They used to talk on phone and fell in love with each other. At his instance she sent her nude photos to him. Thereafter she went to meet him at Parali. At that time she realized that photograph on the Instagram account is of different boy. The said person introduced himself as Ramprasad Sawant and informed her that in the name of Pranav Deshmukh he had sent the friend request to her. He also claimed that he is having her obscene photos and compelled her to continue friendship and failing which threatened her to make the said photographs public. She, therefore, continued the friendship and they were having conversation on Instagram etc. Thereafter, she came to Parbhani for preparation for police recruitment. At that time appellant met her. She stated that he threatened her to make her photographs viral and forced her to keep physical relations. It is alleged that at that time appellant committed established sexual relations with her. Even thereafter physical relations were established not consensually but under threats given by the appellant. It is also claimed that he used to extort money from her and out of fear she had paid Rs.15000/- to him till date.

3. Learned counsel for the appellant submits that this is a case of love affair as it can be seen from the messages exchanged between them. It is contended that both are major and the physical relationship between them is consensual. It is submitted that there is nothing on record to indicate that only because the informant belongs to scheduled caste

community she was subjected to the crime. It is submitted that a mobile phone of the appellant is seized, however, no objectionable material could be found therein. It is submitted that even medical report does not indicate any forcible sexual relationship between them. Thus, according to him after filing of the charge-sheet further custody of the appellant is not necessary.

4. Learned APP and learned counsel for the informant opposed the said contention by submitting that the appellant has cheated by impersonating himself as Pranav Deshmukh. It is further submitted that the sexual relationship between the parties cannot be considered voluntary as the same was established on the basis of threats to publish a obscene photographs of the informant. It is submitted the appellant is likely to pressurize the victim if released on bail.

5. Though the informant claims that she was cheated by the appellant by posing himself to be Pranav Deshmukh, but in the first information report itself it is stated that in spite of the knowledge the appellant not to be Pranav Deshmukh, friendship was continued. Perusal of the record indicates that the informant had send her obscene pictures to the appellant, however, she had deleted the same. During the course of investigation nothing is found that to indicate that any absence pictures are there in the mobile phone of the appellant. Further there is nothing

to show that the said pictures were made viral at any time. Otherwise there is no allegation that any forcible sexual relationship was maintained by appellant. Thus, prima facie there is no reason to discard submission of the learned counsel for the appellant that this could be a case of consensual relationship which subsequently was not worked out. In such circumstances, after conclusion of investigation and filing of charge-sheet, keeping appellant behind the bars is not justified. There is no criminal antecedent against the appellant. He is not likely to abscond.

6. As far as the apprehension of the victim about she being pressurized by the appellant is concerned, he can be directed to attend concerned police station once in a month for the period of six months. Hence the following order.

ORDER

(i) Appeal is allowed.

(ii) The appellant be released on bail in connection with Crime No. 131/2023, registered with New Mondha Police Station, Dist. Parbhani for the offences punishable under Sections 376, 376(2)(n), 506, 384, 385 of Indian Penal Code and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, on furnishing PB and SB of Rs.30,000/- (Rupees Fifteen Thousand only) with one or two sureties in the like amount.

(iii) He shall attend the concerned police station once in a month for period of six months from today.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(vii) Fees of the appointed counsel is quantified Rs. 6000/- and it is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(viii) Bail before Trial Court.

(R. M. JOSHI, J.)

ssp