

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 21 OF 2023

Harshal Subhashrao Timande

...Appellant

V/s.

State Of Maharashtra And Anr.

...Respondents

Ms. Vrushali Maindad a/w Ms. Ankita Nishad, Ms. Shrushti Tupe for Appellant.

Ms. Mrunmai Kulkarni, Appointed Advocate for Respondent No.2.

Mrs. M.H.Mhatre, A.P.P for the Respondent-State.

CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.

DATE : 31st JANUARY, 2023.

PC.:-

. By the present Appeal under Section 14A(1) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*for short* 'SC/ST Act'), the Appellant/Original Accused No.1 has impugned Order dated 15.12.2022 passed by the trial Court and has prayed for bail under Section 439 of Code of Criminal procedure (*for short* 'Cr.PC.') in C.R. No.245 of 2022 registered with Ambernath Police Station, District Thane, for offences punishable under Sections 376, 313, 420, 504, 506, 498(A) read with Section 34 of Indian Penal Code and Sections 3(1)(s), 3(1)(w), 3(1)(p), 3(1)(z) of the SC/ST Act.

2. Heard Ms.Vrushali Maindad, learned Advocate for Appellant, Mrs.M.H. Mhatre, learned A.P.P for Respondent No.1-State and

Ms. Mrunmai Kulkarni, learned *amicus curiae* appointed by this Court to represent Respondent No.2 at length. Perused charge-sheet.

3. The Respondent No.2/victim is the wife of Appellant.

The First Information Report (for short 'FIR') is lodged by Respondent No.2 alleging various acts as contemplated under Sections 376, 313, 420, 506 498(A), read with Section 34 of the Indian Penal Code and the provisions of SC/ST Act, more specifically mentioned in the FIR. Perusal of FIR would indicate that, the Appellant and Respondent No.2 got married on 18.02.2021. Prior to it they were having love affair. The alleged act as contemplated under Section 376 was committed in the year 2020. It appears from the record that, after performing marriage on 18.02.2021, within a period of 7 months there was matrimonial discord. The Appellant therefore filed proceedings for divorce before the Civil Court at Kalyan. It appears to us that, it is the igniting point for filing present crime against the Appellant. Perusal of FIR clearly substantiates the said observations.

4. During the course of investigation Appellant came to be arrested on 01.07.2022 and after completion of investigation Police have submitted charge-sheet in the Court of Additional Sessions Judge, Kalyan on 29.08.2022. In view thereof and according to us, further pre-trial incarceration of the Appellant is not necessary and he can be released on bail.

Hence, the following Order :-

- i) Appellant be released on bail in C.R. No.245 of 2022 registered with Ambernath Police Station, District,Thane on his furnishing P.R. bond of Rs.25,000/- with one or two local sureties in the like amount.
 - ii) After his release from Jail, Appellant shall attend Ambernath Police Station, Dist. Thane, on every alternate Monday between 10.00 a.m. and 12.00 noon initially for a period of three months and subsequently, on every first Monday of the month between 10.00 a.m. and 12.00 noon during the pendency of trial.
 - iii) In view of above, impugned Order dated 15.12.2022 passed below Exhibit – 4 in Special Case No.233 of 2022 by the trial Court is set aside.
 - iv) The Professional Charges of Ms. Mrunmai Kulkarni, learned *amicus curiae* are quantified to Rs.5,000/-.
 - v) The High Court Legal Services Committee, Mumbai is directed to pay the said charges to Ms. Mrunmai Kulkarni within a period of three weeks from the date of production of this Order.
5. Appeal is allowed in the aforesaid terms.

All the concerned to act on the basis of an authenticated copy of this Order.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)