

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.222 OF 2023

Firoz Sayyed Mujawar
vs.
State of Maharashtra and Anr.

...Appellant
...Respondents

Mr. Satyavrat Joshi h/f. Mr. Samay Pawar, Advocate for the Appellant.
Ms. Snehal S. Kolamkar, Appointed Advocate for the Respondent No.2.
Mr. S.R. Agarkar, APP for Respondent – State.
PSI Mr. Kshirsagar, Koregaon Park Police Station, Pune City present.

CORAM : S. M. MODAK, J.
DATE : 19th DECEMBER 2023

P. C. :-

1. Heard learned Advocate Shri Joshi for the Appellant, learned APP and learned Advocate appointed to represent Respondent No.2.
2. The Division Bench of this Court as per order dated 28th February 2023 was pleased to grant interim protection to this Appellant from the arrest.
3. Today, I have heard learned counsel on the point of confirmation of the said order. Additionally, second reason is the Police have already filed charge-sheet.
4. Considering the longstanding relationship, the Division Bench was pleased to grant interim protection. One additional circumstance is filing of private case by the Appellant against the Respondent in the Court of

J.M.F.C., Pune.

5. The learned trial Court refused to pass direction under section 156(3) of the Code of Criminal Procedure, 1973 and the complaint was kept for verification. The alleged offences are under sections 420, 385, 386, 387 and 506 of IPC. This was prior to lodging of present FIR on 31st December 2022.

6. Learned Advocate for the Respondent No.2 invited my attention to various averments in the FIR. According to her, broadly it falls under two categories:-

- (i) Time and again assurance was given to marry and intercourse was performed under the belief that they are going to perform marriage.
- (ii) The Appellant initially has not disclosed his real name as Firoz Mujawar and in fact, described himself as Abhijit Patil.

7. Initially, the offence was registered only under sections, 376 (2)(n), 419 and 506 of the Indian Penal Code but lateron, they have added section 3(1)(w)(i)(ii), 3(2)(va), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

8. Considering the above, I am inclined to continue the interim order. Both the parties have levelled allegations against each other. The trial Court rejected the application on 17th January 2023. It was rejected as the

offence is serious and custodial interrogation is required but now, the charge is filed. Hence, the following order :-

ORDER

- (i) Appeal is allowed.
- (ii) Interim order dated 28th February 2023 passed by the Division Bench of this Court is confirmed;
- (iii) The order passed by the learned Special Judge and Additional Sessions Judge, Pune dated 17th January 2023 passed in Criminal Bail Application No.22 of 2023 in C.R. No.150 of 2022 for the offence punishable under sections, 376 (2)(n), 419 and 506 of the Indian Penal Code and under sections 3(1)(w)(i)(ii), 3(2)(va), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is quashed and set aside.
- (iv) Learned Advocate for Respondent No.2 be paid fees as per Rules.

[S. M. MODAK, J.]