

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

CRIMINAL APPEAL NO.909 OF 2023

Rahul Bhaskar Revgade ...Appellant
vs.
State of Maharashtra and Anr. ...Respondents

Mr. Parmane, Advocate for the Appellant.
Mr. S.R. Agarkar, APP for the Respondent – State.
Mr. Nitin B. Patil, Advocate for the Respondent No.2.
Mr. Uttam Babu Kamble, P.S.I. Yawat, Pune Rural.

CORAM : S. M. MODAK, J.
DATE : 29th NOVEMBER 2023

P. C. :-

1. Heard learned Advocate for the Appellant – Accused, learned APP for the Respondent – State and learned Advocate for the Respondent No.2 – first informant.
2. There is an allegation that the Appellant has forcibly sexually assaulted the victim on 2nd April 2023 at village Boripardhi, Choufula, Taluka Daund, District Pune. The first informant is a performer in Tamasha Progame whereas, the Appellant is an organiser having a licence. They knew each other. The Appellant invited her to perform at Sangamner. On her request, he went to Boripardhi, Choufula, Taluka Daund. The Appellant was accompanied by his mother Sangita.
3. Initially, co-accused Sangita told first informant to marry the present Appellant. First informant is already married and hence, she

refused. The Appellant took first informant near bridge at about 10.15 pm on 2nd April 2023. Initially, co-accused Sangita gave a dash to her, as a result, first informant fell down and then the present Appellant had forcibly sexual intercourse with her. Even she was threatened. FIR came to be lodged with Yawat Police Station on 21st April 2023 and offence under section 376(2)(f) of IPC and Sections 504, 506 r/w 34 of IPC was registered.

4. Lateron, Police have applied the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 and Sections 3(1)r, 3(1)s, 3(ii)(va) and 3(1)w of Atrocities Act. The Applicant came to be arrested. Charge sheet is filed before the concerned Court of Additional Sessions Judge, Baramati and rejected his regular bail application.

5. With the assistance of both the sides, I have perused the papers annexed to the charge sheet. The contention is after the alleged incident even first informant has performed in other functions and there is a delay in lodging the FIR. FIR is lodged as there was some dispute about the payment. Whereas, learned APP and learned counsel for Respondent No.2 invited my attention to the documents annexed to the charge sheet. It includes spot panchanama and medical opinion and other papers. Spot panchanama do suggest that some incident has taken place. Whereas, medical opinion on page 57 suggest that possibility of sexual violence

cannot be ruled out. There was no evidence of physical injury found.

6. I have read the order passed by the learned Additional Sessions Judge. On the basis of the materials collected denied bail to him. It is true that FIR is lodged after a period of almost 18 days. The first informant is major. The case is argued for consensual relationship by way of alternate plea. Investigation is complete. One does not know when the trial will commence. No antecedents are pointed out. These factors are not considered by the learned Sessions Judge.

7. These are prima facie observations and let trial Court to decide the trial on the basis of evidence. Hence, the order :-

ORDER

- (i) Appeal is allowed;
- (ii) Order dated 17th July 2023 passed by the Additional Sessions Judge-2, Baramati, District Pune, is set aside;
- (iii) Appellant be released on furnishing Personal Bond and Surety Bond of Rs.25,000/- in offence under 376(2)(f) of IPC and Sections 504, 506 r/w 34 of IPC and Sections 3(1)r, 3(1)s, 3(ii)(va) and 3(1)w of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 registered with Yawat Police Station.
- (iv) Appellant not to threaten the prosecution witnesses and attend the trial Court punctually.
- (v) Appeal is disposed of.

[S. M. MODAK, J.]