

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1012 OF 2023**

Nishank Nilam Choudhary .. Appellant
Versus
State of Maharashtra .. Respondent

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Mr.Milan Desai for the appellant.
Mr. Y.M.Nakhwa, APP for the State.
Mr. Heramb Pawar a/w Mr. Sandeep Kshirsagar, for respondent no.2.
Mr. Rahul Patil, PSI, Powai Police Station.

**CORAM: BHARATI DANGRE, J.
DATED : 9th NOVEMBER, 2023**

P.C:-

1 The present appeal is filed being aggrieved by the rejection of the bail application filed by the appellant before the Special Court and in the present appeal filed under Section 14A, he seek his release on bail in connection with C.R.No.306 of 2023 registered with Powai Police Station, which has invoked Section 376 (2)(n), 377, 504, 506 of Indian Penal Code along with Section 3(1)(r), 3(1)(s), 3(1)(w)(i), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

 The appellant came to be arrested in connection with the said C.R. on 19/05/2023 and on completion of investigation the charge-sheet is filed.

With the able assistance of the counsel for the appellant and the counsel appearing for respondent no.2, I have perused the material compiled in the charge-sheet.

The complainant aged 30 years reported to the Police Station about the accused no.1 committing sexual intercourse with her from the period of almost 1 year on the pretext that he is going to marry her.

In the narration the complainant has stated that when the appellant attempted to be in proximity with her, she objected but despite this, on being promised that he will perform marriage with her, she permitted the indulgence. Thereafter, they met on several occasions in hotels/lodges, but it is her narration that on every occasion on pretext of marriage the sexual intercourse was committed with her. Ultimately when she realized that he was interested in some other girl, as his mother has searched a girl for him, he is alleged to have insulted and humiliated her by referring to her caste. When she along with her family members visited the house of the appellant, it is alleged that they were humiliated by his family members, by stating that she belong to a lower caste.

2 On the face of the accusations, it has to be ascertained whether the promise to marriage given by the appellant resulted into the sexual indulgence and this ultimately would be a matter of trial. In any case, now upon completion of investigation, the charge-sheet is filed and incarceration of the appellant is unnecessary, as he may take the consequences of the material in the charge-sheet, upon being tried.

In the wake of the above, I deem it appropriate to release the appellant on bail subject to the following conditions:

ORDER

- (a) Appeal is allowed, the impugned order dated 9/08/2023, passed by the Additional Sessions Judge, Borivali, in Special Case No.374 of 2023 is quashed and set aside.
- (b) Appellant - Nishank Nilam Choudhary, shall be released on bail in connection with C.R.No. 306 of 2023 registered with Powai Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- each with one or two sureties in the like amount.
- (c) The appellant shall mark his attendance on first Monday of every month between 10:00 a.m to 12:00 noon to the Powai Police Station till framing of charge.
- (d) The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The appellant shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)