

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1097 OF 2022

Kiran @ Sonu Bhau Chandrakant Dagade ... Appellant

Versus

The State of Maharashtra and Another ... Respondents

Mr. Satyavrat Joshi i/by Mr. Nitesh Mohite, Advocate for the Appellant.

Ms. S.S. Kaushik, APP for the Respondent–State.

Mr. Swaraj Jadhav, Advocate (appointed) for respondent No.2.

CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.

DATE : APRIL 11, 2023

ORDER (Per : Sharmila U. Deshmukh, J.):

1. By this appeal, filed under Section 14A of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short, “SC/ST Act”), the Appellant seeks to quash and set aside the order dated 15th September, 2022, passed by the Special Judge and Additional Sessions Judge, Pune in Criminal Bail Application No.4515 of 2022 and seeks his enlargement on bail in connection with C.R. No.541 of 2022,

registered with Hinjewadi Police Station, Pune, for offences under Sections 376(3), 354 (b), 506 of the Indian Penal Code, read with Sections 3(1) (w) (i) (ii) of the SC/ST Act and under Sections 4, 5(n), 6, 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Mr. Joshi, learned counsel appearing for the Appellant, Ms. Kaushik, learned APP for the State and Mr.Swaraj Jadhav, learned appointed counsel for the Respondent No.2.

3. Perused the papers with the assistance of the learned counsel appearing for the parties. The Complainant is the mother of the victim i.e. the Respondent No.2. It is the prosecution case, that the Appellant is known to the Complainant since past six years and he used to meet the Complainant everyday at her residence. It is alleged that on 8th June, 2022, the complainant returned home at 10.30 a.m. after finishing her work and found the Respondent No.2 lying on the bed. Upon being questioned by the complainant, the Respondent No.2 informed her that on 8th June, 2022 approximately at 1:30 a.m., the Appellant had visited the house of the complainant and after bolting the door of the room, in which the complainant was asleep, the Appellant sexually assaulted the Respondent No.2. As such, on 9th June,

2022, the First Information Report (FIR) came to be registered with Hinjewadi Police Station by the complainant.

4. Perusal of the statement of the Respondent No.2 reveals that it is alleged that on 8th June, 2022 at about 1.30 a.m, the Appellant came to her house and after bolting the door of the room where her mother was asleep, the Appellant sexually assaulted the Respondent No 2. It is further alleged that she was threatened by the Appellant not to inform her mother about the incident or else he would kill her. It is alleged that the Respondent No.2 got scared and went of to sleep without informing her mother; that the next day when her mother returned home from work and questioned her, the Respondent No.2 revealed the incident to her mother and thereafter the complaint was lodged at Hinjewadi police station. The statement of the Respondent No.2 is corroborated by the statement of the Complainant.

5. Considered the statements and the FIR which are on record. Admittedly the chargesheet has been filed in the present case. The Respondent No.2 is a 13 year old girl and it is alleged that the Appellant-paramour of her mother, has taken undue advantage of the Respondent No.2 and sexually assaulted her. The incident has taken place on 8th June, 2022 and FIR has been lodged

on 9th June, 2022 immediately upon the incident being revealed to the Complainant. From the statements of the Complainant and the Respondent No.2, the complicity of the Appellant cannot be ruled out. Considering the grave and serious nature of offences, and, considering that there is possibility of Appellant tampering with the evidence as the Appellant was the paramour of the mother of the Respondent no.2, we do not deem it appropriate to enlarge the Appellant on bail.

6. For the reasons above, the Appeal stands dismissed.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.