



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 962 OF 2023

Heenakausar Maulali Shaikh ...Appellant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Ritesh Thobde for the Appellant.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

Mr. Pratapsingh Dongare, PSI, Sadar Bazar Police Station, Solapur City.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**
DATE : 31st AUGUST, 2023

P.C. :

1. At the outset, learned Counsel for the appellant seeks leave to amend the appeal. Leave granted. Amendment to be carried out forthwith, during the course of the day.
2. Heard learned Counsel for the appellant.

3. By this appeal, preferred under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the appellant seeks quashing and setting aside of the impugned order dated 5th August, 2023, passed in Criminal Bail Application No. 763 of 2023, by which, the learned Additional Sessions Judge – 3, Solapur, was pleased to reject the appellant's application, seeking her pre-arrest bail. Accordingly, the appellant seeks pre-arrest bail in connection with C.R. No.443 of 2023, registered with the Sadar Bazar Police Station, District – Solapur City, for the alleged offences punishable under Sections 376(2)(i), 376(2)(j), 376(2)(n), 376(3) of the Indian Penal Code; under Sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012; and, under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'SCST. Act').

4. Learned Counsel for the appellant submits that the appellant is the sister of the accused, who is alleged to have sexually

assaulted the respondent No.2 i.e. the prosecutrix. He submits that the allegations as against the appellant is that her brother i.e. co-accused had taken the prosecutrix to the appellant's residence, where he sexually assaulted her. According to the learned Counsel for the appellant, the sexual assault is alleged to have taken place on 16th February, 2022 and 17th May, 2022, however, the FIR was lodged on 1st July, 2023 i.e. almost after a delay of one year and two months.

5. Issue notice to the respondents, returnable on **25th September, 2023**. Learned A.P.P waives notice on behalf of respondent No.1 – State. In addition to Court notice, appellant to serve the respondent No.2, by private notice and file affidavit of service before the next date.

6. Learned APP assures to inform the respondent No.2 of the next date, through the concerned officer of the concerned police station. The concerned officer to record the statement of the respondent No.2, as to whether the respondent No.2 intends to engage an advocate of her own choice, or would want an advocate

from the Maharashtra Legal Services Authority to espouse her cause. The said statement to be produced before us, on the next date.

7. Having heard learned Counsel for the appellant, in particularly, role ascribed to her, the appellant has *prima facie*, made out a case for grant of interim protection. Accordingly, in the meantime, till the next date, the appellant is granted interim protection from arrest, on the following terms and conditions :-

ORDER

- (i) In the event of the arrest, the appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/-, with one or two sureties in the like amount ;
- (ii) The appellant shall report to the Investigating Officer of the concerned Police Station, from 4th and 5th September, 2023, between 10.00 a.m. and 12.00 noon, and thereafter as and when called.

8. Stand over to **25th September, 2023.**
9. All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.