

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPEAL NO. 112 OF 2021

Yogesh Mahadev Kanade
Aged 24 years, Occ.: Agriculturist,
R/o. Rohada, Tq. Pusad, Dist. Yavatmal
(In Jail)

}

... Appellant

Versus

1. State of Maharashtra,
Through P.S.O. Khandala,
Tq. Pusad, Dist. Yavatmal

}

2. Anuradha Kailash Bele
Age: 18 years, Occ.: Household,
R/o. Marwadi Bu., Tq. Pusad,
Dist. Yavatmal.

... Respondents

Mr. K.S. Narwade, Advocate for appellant.

Mr. M.J. Khan, APP for respondent No.1.

Ms. Priyanka R. Arbat, Advocate (appointed) for respondent No.2.

CORAM : VINAY JOSHI, AND
VALMIKI SA MENEZES, JJ.
DATE : 13.02.2023.

ORAL JUDGMENT: (PER: Vinay Joshi,J)

Heard finally by consent of both the learned counsel
for the parties.

(2) Admit.

(3) This is an appeal in terms of Section 14(A) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, offences punishable under Sections 376(2)(n), 417 of Indian Penal Code, 1860 and Section 3(1)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, seeking challenge to the order of rejection of regular bail.

(4) At the instance of report lodged by informant lady, aged 19 years crime was registered. It is her case that she had love relationship with accused. Both of them left their house and stayed at the relative's house. The informant stated that during their stay at different places, the accused assured her for marriage and had sexual advances. Later on, accused refused to marry and therefore, the report.

(5) Undisputedly, informant was major at relevant time. There are no allegations of force or coercion. The prosecution case totally rests upon the decisive factor, whether since inception the accused had deceitful intention and under false pretext of marriage did he obtain consent of victim for sexual assault.

(6) The investigation is complete and charge-sheet has been filed. This Court vide order dated 05.03.2021, has granted

interim bail which is prevalent till date. There is no complaint about misuse of liberty. Having regard to all above facts, it is not a case where the accused shall be kept behind the bars till conclusion of the trial. In view of that, the appellant has made out a case for grant of bail and we hereby, allowed the appeal in the following terms :

(i) The impugned order dated 08.01.2021 passed in Special Case No.4/2021, is hereby quashed and set aside.

(ii) The interim order passed by this Court on 05.03.2021 is hereby made absolute.

(iii) We further direct that the appellant shall not tamper the prosecution evidence in any manner, nor try to contact the victim or prosecution witnesses.

(7) The appeal stands disposed of in above terms.

(8) Fees of appointed counsel be paid as per rules.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]