

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

CRIMINAL APPEAL NO.218 OF 2023

Himmatsingh s/o Telsingh Chauhan,
Aged about 25 Years, Occupation – Labour,
R/o: Athwadi Bazar Jalgaon (Jamod),
Taluka Jalgaon (Jamod), District – Buldhana.

APPELLANT

// VERSUS //

- 1) The State of Maharashtra, Through
Police Station Officer, Jalgaon Jamod,
Taluka Jalgaon (Jamod), District Buldhana.
- 2) Surendra Manikrao Wankhede,
Aged about 32 Years, Occupation – Labour,
R/o. Akoli, (Bu) Sangrampur, Tamgaon,
District Buldhana.

RESPONDENTS

Mr. S. V. Sirpurkar, Advocate for the appellant.
Mr. M. J. Khan, APP for respondent No.1/State.
Ms. Falguni Badani, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/07/2023

ORAL JUDGMENT

1. Heard.
2. **ADMIT.** Heard finally by consent of the learned
Counsel appearing for the parties.
3. The present appeal is preferred under Section 14-A
of the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, as the bail application of the present appellant is rejected by the Special Court. The appellant is arrested on 18.07.2022 and since then he is in jail.

4. The appellant was arrested by Jalgaon (Jamod) Police Station on 18.07.2022 as crime was registered on the basis of report lodged by Surendra Manikrao Wankhede. It is alleged in the report that on 15.07.2022 his wife called him for some money and informant informed her that co-accused Nilesh Mane owes him amount of Rs.3000/-. Later on, the deceased informed the informant that she had called co-accused Nilesh Mane for the remaining amount and said Nilesh Mane asked her to come Nimbhori Fata to take the remaining amount. The informant returned back to home at around 8.30 p.m. and called the deceased but her phone was not traceable. Thereafter, informant called the father of the deceased Ashok Dongardive to know the whereabouts the deceased. But, the father-in-law informed to him that deceased has not reached at home. Therefore, he requested to search the deceased along with Nilesh and Amol who is the brother of the deceased. As deceased was not traceable, he has lodged the missing report. Thereafter, Nilesh

Ashok Dongardive who is the brother-in-law of the informant has also lodged the missing report of the deceased.

5. On 16.07.2022 at about 10.15 p.m. the informant came to know from his elder brother that the body of the deceased was found in the Well near Nimbhori Fata. The informant alleged that the deceased has committed suicide due to the abetment at the hands of co-accused Nilesh Mane. On the basis of the said report, police have registered the crime against the Nilesh Mane.

6. During the investigation, the statement of Nilesh Mane was recorded. In the said statement, he has disclosed that there was illicit relationship between him and the deceased. They went together to home, and at that time three persons restrained them and one of them asked the deceased about sexual favours. They were also assaulted by these persons. Thereafter, the deceased has committed suicide jumping into the Well at Nimbhora Fata. On the basis of the said statement, the present applicant was added as an accused.

7. As per the contention of the present accused/appellant, he is implicated falsely in the alleged offence. In fact, Nilesh Mane and deceased were together and thus Nilesh Mane to save himself made a statement against the present appellant. Now, the investigation is completed and charge-sheet is filed. There is no nexus between the suicide and the abetment at the hands of the present appellant. In fact, there is no proximity between the two incidences. Further custody of the appellant is not required. He is in jail since the date of his arrest i.e. from 18.07.2022. Considering these all aspects, he be released on bail.

8. The said application is strongly opposed by the State on the ground that present appellant is the person who asked the deceased for sexual favour. Due to which, she jumped into the Well and committed the suicide. There are eye witnesses to the incident, when present appellant has restrained the deceased and asked her for the sexual favours. Thus, there is a *prima facie* material against the present appellant, if he is released on bail, he will tamper with the prosecution evidence. Considering

the gravity of the offence, the application of the appellant deserves to be rejected.

9. The learned Counsel Ms. Falguni Badani, for the respondent No.2 reiterated the contentions and opposed the application.

10. Heard learned Counsel Mr. Sirpurkar for the applicant. He submitted that initially, the report is lodged against Nilesh Mane. The said Nilesh Mane has come with this case that he and the deceased were restrained by the present appellant and two persons and the present appellant asked her for sexual favours. In fact, to save the scheme Nilesh Mane has come with this false allegation. During the investigation, the Investigation Officer has recorded the relevant statements of the witnesses. Now, the investigation is completed, and the charge-sheet is filed. The alleged offences are not punishable with imprisonment for life or more than ten years. The maximum punishment provided is for the offence punishable under Section 306 of the Indian Penal Code i.e. up to ten years. Considering that, further custody of the present appellant is not

required and no purpose will be served by keeping the present appellant behind the bar, hence, he be released on bail.

11. The learned APP Mr. Khan for the State vehemently submitted that the allegation against the present appellant is of serious in nature. There is proximity between two incidences and the present appellant has asked for sexual favours, and thereafter, immediately deceased has committed suicide. Thus, there is direct evidence against the present appellant to ascertain that due to the abetment at the hands of the present appellant, she has committed suicide. Considering the nature of the allegation, and the deceased has committed suicide, the application deserves to be rejected.

12. The learned Counsel for the respondent No.2 endorsed the same contention and prays for rejection of the application.

13. Having heard both the sides and on perusal of the investigation papers, admittedly, on the basis of FIR lodged by the husband of the deceased, crime is registered against one

Nilesh Mane. During the investigation, the statement of Nilesh Mane was recorded by the Investigating Officer. On the basis of the statement of the said Nilesh Mane, the present appellant/accused is arrayed as an accused in the present crime. In the said statement, Nilesh Mane has disclosed that the present appellant and another two persons restrained them when they were proceeding on motorcycle. They have removed the key of their vehicle, threatened them, they are having their photographs and thereafter, asked for the sexual favours from the deceased. Due to which, the deceased has committed suicide at Nimbhora Fata by jumping into the Well. Thus, there is sufficient material to connect the present appellant with the alleged offence. However, considering that the alleged crime is registered against the present appellant is under Section 306 of the Indian Penal Code, for which the punishment up to ten is provided. Now, the investigation is completed and charge-sheet is filed. Considering the nature of the evidence, all the witnesses are of residents of Jalgaon (Jamod). The present applicant is also resident of Jalgaon (Jamod). The application can be considered by imposing certain conditions on the present appellant as his further custody is not required and no purpose will be served in

keeping him behind bar. In view of that, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The appellant **Himmatsingh s/o Telsingh Chauhan** is released on bail in Crime No.416/2022 registered with Police Station Jalgaon (Jamod) District Buldhana, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The appellant shall not enter into the jurisdiction of Jalgaon (Jamod), till disposal of the Sessions Trial.
- (iv) The appellant shall not induce, threat or promise any witnesses who are connected with the alleged crime.
- (v) The fees of the learned appointed Counsel for the respondent No.2, be quantified as per the rules.

(URMILA JOSHI-PHALKE, J.)

Sarkate.