

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

CRIMINAL APPEAL NO. 280 OF 2023

Gajanan s/o Raghunath Kadukar
Age 47 years, Occ.: Agriculturist,
R/o. Khiroda, Tq. Sangrampur,
Dist. Buldana (Presently in Buldana Jail) } ... Appellant

Versus

1. State of Maharashtra,
Through Police Station Officer,
Police Station Shegaon, Tq. Shegaon,
District – Buldana.
 2. XYZ
Through Complainant vide Crime
No.146/2023, PSO, PS Shegaon,
Dist. Buldana.
- } ...Respondents

Mr. A.J. Thakkar, Advocate for appellant.

Mr. V.A. Thakare, APP for respondent No.1.

CORAM : VINAY JOSHI, AND
BHARAT P. DESHPANDE, JJ.

DATED : 04.05.2023.

ORAL JUDGMENT : (PER: Vinay Joshi, J.)

. **Admit.** Heard finally by the consent of the learned
counsel for the respective parties.

(2) This appeal is under Section 14-A of the Scheduled
Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989,
challenging the order of rejection of regular bail in Bail Application

No.77/2023 vide order dated 03.04.2023. The appellant is arrested in connection with Crime No.146/2023, registered with Police Station Shegaon, District – Buldana, for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code.

(3) The learned APP made a statement that the informant is served, however, she is absent.

(4) On the basis of report lodged by a married lady aged 36 years, crime has been registered. It is informant's case that her younger son was suffering from ailment. The appellant assured for helping her for getting proper medical aid and established cordial relations with the family. In that connection, appellant was in visiting terms at the house of informant. On 29.01.2023 around 6:00 p.m. the appellant came to the house of informant while she was alone with her ailing child. It is alleged that appellant gave threats to the lady and had forcible sexual intercourse. The informant has disclosed the things to her husband within two days, however, both of them remained silent, as the appellant re-assured to provide medical help. Then on 07.02.2023, appellant took the informant to the hospital at Akola for the treatment of her son. They met the Doctor and then he took

informant into the field behind the hospital, where again repeated the things. The appellant gave threats of dire consequences and therefore, after some days, she has filed the report.

(5) The learned counsel appearing for appellant would submit that the story narrated by informant is improbable. At the most, it is a case of consensual relationship. He would submit that there is considerable delay in lodgment of the FIR. The investigation is practically complete, therefore, further detention is unwarranted.

(6) As per police report, the first incident occurred on 29.01.2023, which was made to known to the husband within two days. The second incident is dated 07.02.2023, however, FIR has been lodged on 07.03.2023 i.e. after a period of one month. Though, the informant stated that there was forcible sexual intercourse, however, despite knowledge of the things to the husband, no report was lodged. We find substance in the appellant's contention at least to the extent of *prima facie* case about consensual relationship. The investigation is practically complete. In the circumstances, there is no necessity to detain the appellant. He can be released on imposing certain conditions. In view of that the following order:

ORDER

- (i) The appeal is allowed.
- (ii) We hereby quash and set aside the order of the trial Court dated 03.04.2022, passed in Bail Application No.77/2023.
- (iii) The appellant namely Gajanan s/o Raghunath Kadukar, is released on bail in connection of Crime No.146/2023, registered with Police Station Shegaon, District – Buldana, for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code, on furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
- (iv) The appellant shall not tamper the prosecution evidence in any manner.
- (v) The appellant shall attend concerned Police Station on every Monday in between 10:00 to 12:00 p.m. for the period of six months from today.

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

[BHARAT P. DESHPANDE, J.]

[VINAY JOSHI, J.]