

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

CRIMINAL APPEAL NO.679 OF 2022

APPELLANTS : 1. Govind s/o Sanjay Sharma
Aged- 20yrs, Occ. - Education
2. Gurucharan s/o Sanjay Sharma
Aged- 22yrs, Occ. - Education

Both R/o Arogya Colony, Shegaon Ta.
Shegaon Dist. Buldhana.

..VERSUS..

RESPONDENTS : 1. State of Maharashtra,
Through Police Station Officer Police
Station Shegaon City, Tq. Shegaon
Dist- Buldana.
2. XYZ (VICTIM)
Crime No.286/2022, Police Station
Shegaon City, Tq. Shegaon Dist-
Buldana.

Shri S. V. Sirpurkar, Advocate for the Appellants.
Shri N. S. Rao, APP for the Respondent No.1/State.
Ms N. G. Chaubey, Advocate (Appointed) for the Respondent No.2.

CORAM : **VINAY JOSHI AND VALMIKI SA MENEZES, JJ.**
DATE : **3rd JANUARY, 2023.**

ORAL JUDGMENT : **(PER : VINAY JOSHI, J.)**

. Heard.

2. By consent of the learned Counsel appearing for the parties, Criminal Appeal is taken up for final disposal at the stage of admission.

ADMIT.

3. This is an appeal under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SC and ST Act") challenging the order of rejection of regular bail passed in Special Case No.67 of 2022 vide order dated 15.09.2022. Both the Appellants were arrested by the Police of Shegaon Police Station, District Buldana in connection with the offence punishable under Sections 376, 324, 354, 354A(1)(i) and 506 of the Indian Penal Code and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2), 3(V) and 3(2)(va) of the SC and ST Act.

4. At the instance of report lodged by Victim a married lady aged 21 years, crime has been registered. It is her contention that on 26.03.2022, she alongwith her husband started to reside in the rented premises owned by both the Appellants-accused. Victim's husband used to go out for

labour work and in his absence, both the accused were entering in her room and making physical advances. Both of them have also sexually abused her on threat of dire consequences. The Victim has not disclosed the things to her husband out of fear. After three months, they left the tenanted room, shifted elsewhere, and thereafter, she has lodged report.

5. Shri Sirpurkar, learned Counsel appearing for Appellants-accused would submit that the story as narrated by Victim is totally improbable. The Victim is major and her non-disclosure of alleged incident to her husband is also improbable. It is Appellants' contention that the Victim and her husband have avoided to pay the rent and when it was demanded, they have been falsely implicated. As per Police report, the alleged incident took place somewhere in the first and second week of April-2022, whilst the Police report has been lodged after three months. The Victim though was staying with her husband, she has not disclosed the things to her husband, but continued to stay in said room for next three months, which *prima facie*, appears to be doubtful. Already Police have completed investigation and charge-sheet has

been filed. By the time the Victim has left to reside at Shegaon and staying elsewhere. This Court has already granted interim protection prior to two months, but there is no complaint of misuse of liberty. Having regard to all above facts, it is a fit case to exercise our judicial discretion in releasing accused on bail.

6. In view of above, criminal appeal is allowed. The impugned order dated 15.09.2022 passed by Special Judge, Khamgaon, Dist. Buldana in Special Case No.67 of 2022 is hereby quashed and set aside. Interim order passed by this Court on 21.10.2022 is hereby made absolute with further condition that the Appellants shall not tamper or contact the prosecution witnesses in any manner.

7. Criminal appeal stands disposed of in above terms. Criminal applications, if any, stand disposed of.

8. Fees of appointed Counsel be paid as per Rule.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)