



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

942 CRIMINAL APPEAL NO. 555 OF 2024

Mangesh Bhaskar Wagh

..APPELLANT

-VERSUS-

1. State of Maharashtra
2. X.Y.Z.

..RESPONDENTS

...

Advocate for appellant : Mr. Ravindra Vitthal Gore

APP for Respondent/State: Mr.S.P. Sonpawale

Advocate for respondent no.2 : Ms. Varsha M. Shelke (Kolpe) (appointed)

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 18th July, 2024.

P.C.:

1. This appeal is preferred against the order dated 21st June, 2024 passed below Exhibit-1 by the Additional Sessions Judge-10, Aurangabad in Bail Petition No. 1162 of 2024 filed in pursuance of FIR No.159 of 2024 registered with Harsul Police Station, Aurangabad, for the offences punishable under sections 376, 376(2)(n), 504, 506 of the Indian Penal Code (For short, "I.P.C.") and sections 3(1)(w)(i), 3(1)(w)(ii), 3(2), 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. It is prosecution's case that there was dispute between the informant and her husband and she was staying separately with her two sons from her husband. At that time, she had acquaintance with the appellant on 15th November, 2019. Thereafter, the relations between the appellant and informant developed and the appellant

assured her that he will marry with the informant. On the promise of marriage, the informant kept physical relationship with the appellant. Thereafter, the appellant avoided to marry with the informant. The appellant was aware that the informant is of scheduled caste. It is alleged that when the informant insisted the appellant to marry with her then the appellant abused on her caste and the appellant refused to marry with the informant. The informant lodged report against the appellant.

3. It is contention of learned counsel for the appellant that the appellant and informant were in live in relationship. The relations between the appellant and informant were consensual. The appellant never abused the informant on her caste. Due to dispute, the informant has filed false complaint against the appellant. Considering the allegations against the appellant, his custodial interrogation is not required, hence requested to allow the appeal.

4. It is contention of the learned APP and the learned counsel for respondent no.2 that the appellant kept physical relations with the informant under the promise of marriage. Informant would not have kept relations with the appellant had there not been promise of marriage. The learned APP further submitted that due to sexual assault by the appellant, the informant had got pregnant. Later on said pregnancy is terminated. The learned APP further submitted that considering the allegations against the appellant, his custodial

interrogation is required, hence requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the impugned order passed by the trial Court, F.I.R. and police papers produced on record.

6. It appears that the appellant and informant were in physical relations for four years. There was consensual relationship. Considering these facts, the custodial interrogation of the appellant is not required and I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 21st June, 2024 passed below Exhibit-1 by the Additional Sessions Judge-10, Aurangabad in Bail Petition No. 1162 of 2024 is quashed and set aside.
- (iii) In the event of arrest of the appellant in connection with FIR No.159 of 2024 registered with Harsul Police Station, Aurangabad, for the offences punishable under sections 376, 376(2)(n), 504, 506 of the Indian Penal Code and sections 3(1)(w)(i), 3(1)(w)(ii), 3(2), 3(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant be released on executing personal bond in the sum of Rs.15,000/- with one surety of the like amount, on the following conditions :-
 - (a) the appellant shall attend the concerned police station as and when required by the Investigating Officer.

(b) the appellant shall not enter in the vicinity where the informant stays.

(c) Fees of Rs.5,000/- be paid to learned counsel Ms. Varsha M. Shelke (Kolpe) appointed to represent the cause of respondent no.2 through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

sga