



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

923 CRIMINAL APPEAL NO. 594 OF 2024

SOHAN SUKHDEV GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. Ghongade Sudheerkumar G.
APP for Respondent/State : Mr.C.V. Bhadane
Advocate for Respondent no.2 : Ms.Apache Pooja Kishor (appointed)

...
CORAM : **SHIVKUMAR DIGE, J.**

DATE : 6th August, 2024.

P.C.:

1. This appeal is preferred against the order dated 27th June, 2024 passed by Special Judge, Aurangabad in Criminal Bail Application No.1260 of 2024 filed in pursuance of F.I.R. No.0162 of 2024 registered with Jawahar Nagar Police Station, Aurangabad for the offences punishable under sections 376 and 337 of the Indian Penal Code (For short, "IPC") and sections 3(1)(r), 3(1)(s), 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
2. It is prosecution's case that the informant had love affair with the appellant. On 5th June, 2024, the appellant took the informant on one Lodge and sexually assaulted her. It is alleged that thereafter on 8th June, 2024 at around 9:25 p.m., the appellant took informant in his rickshaw and asked sexual favour from the informant. When informant denied it and asked him to drop her at her home, at that time the appellant pushed the informant from rickshaw. Due to that push the

informant fell on ground and got unconscious. When the informant regained consciousness, she saw that the people had gathered near her and the appellant was caught hold by the people. Thereafter she lodged the complaint against the appellant.

3. It is contention of the learned counsel for the appellant that the appellant has been falsely implicated in this case. The informant is 19 years old. Alleged incident is happened on 5th June, 2024 but the informant did not lodge the complaint. Thereafter on 8th June, 2024, the informant had gone with the appellant. It shows that the relations between the appellant and informant were consensual. The learned counsel further submitted that there is two days delay in lodging the complaint. The complaint against the appellant is lodged on 8th June, 2024. The appellant is behind bar more than two months. He is college going students. If he is remained in jail his educational career will be destroyed and requested to allow the appeal.

4. It is contention of the learned APP along with learned counsel for respondent no.2 that the appellant has sexually assaulted the informant. Thereafter again he tried to sexually assault her. When she denied then the appellant pushed her from his auto-rickshaw. The appellant was caught hold on the spot by the people. It shows his involvement in the crime and requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the impugned order passed by the Special Court.

6. It appears that the physical relations between the appellant and informant was consensual. From the contents of the F.I.R. it does not appear that the appellant had abused the informant on her caste or it is not mentioned that the appellant was aware about the caste of the informant. The appellant is behind bar more than two months. Investigation is almost completed. The appellant is college going student. Considering these aspects, further detention of the appellant is not required and I pass the following order :-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 27th June, 2024 passed by Special Judge, Aurangabad in Criminal Bail Application No.1260 of 2024 is quashed and set aside.
- (iii) The appellant in connection with F.I.R. No.0162 of 2024 registered with Jawahar Nagar Police Station, Aurangabad for the offences punishable under sections 376 and 337 of the Indian Penal Code and sections 3(1)(r), 3(1)(s), 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 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 not tamper the prosecution evidence and shall not pressurize the prosecution witnesses and informant.

(b) the appellant shall not contact the informant and her family members or witnesses.

(iv) Fess of Rs.10,000/- be paid to Ms.Pooja K. Apache, learned counsel appointed to represent the cause of respondent no.2 through High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

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