



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

924 CRIMINAL APPEAL NO. 619 OF 2024

YUVRAJ SHIVAJI KADAM
VERSUS
THE COMMISSIONER OF POLICE AND OTHERS

...
Advocate for Appellant : Mr. More P. P.
APP for Respondent/State : Mr.Pravin S. Patil
Advocate for Respondent no.3 : Mr.Madne Akash Eknathrao (appointed)

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

DATE : 6th August, 2024.

P.C.:

1. This appeal is preferred against the order dated 3rd July, 2024 passed below Exhibit-1 by Special Judge, Aurangabad in Criminal Bail Application No.1262 of 2024 filed in pursuance of F.I.R. No.0189 of 2024 registered with Kranti Chowk Police Station, Dist. Aurangabad, for the offences punishable under sections 376, 376(2)(n), 323, 504 read with 34 of the Indian Penal Code (For short, "IPC") and sections 3(1)(w)(i), 3(1)(w)(ii) 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. It is alleged that the appellant had kept physical relationship with the informant on the promise that he will marry with her. As the appellant promised to marry with informant, hence the informant kept physical relationship with the appellant. It is alleged that thereafter, the appellant refused to marry, hence the informant lodged the complaint

against the appellant.

3. It is contention of the learned counsel for the appellant that the informant is major. Physical relations between the appellant and informant were consensual. After filing the complaint, the informant and appellant got married and they are staying together. Informant has no objection to allow the appeal and requested to allow the appeal.

4. It is contention of the learned APP that the appellant had sexually assaulted the informant on several occasions on the promise of marriage. Considering the allegations against the appellant, his custodial interrogation is required and requested to dismiss the appeal.

5. It is contention of learned counsel for respondent no.3 that the appellant and informant have performed the marriage and they are staying together. The informant has no objection to allow the appeal. The learned counsel for respondent no.3 has tendered the affidavit in reply. It is taken on record.

6. I have heard all the learned counsel. Perused F.I.R. and police papers produced on record.

7. It is alleged that the appellant had sexually assaulted the informant on the promise of marriage. They have performed the marriage during the pendency of this appeal. The informant has no objection to allow this appeal. Considering these aspects, 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 3rd July, 2024 passed below Exhibit-1 by Special Judge, Aurangabad in Criminal Bail Application No.1262 of 2024 is quashed and set aside.
- (iii) In the event of arrest of appellant in connection with F.I.R. No.0189 of 2024 registered with Kranti Chowk Police Station, Dist. Aurangabad, for the offences punishable under sections 376, 376(2)(n), 323, 504 read with 34 of the Indian Penal Code and sections 3(1)(w)(i), 3(1)(w)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 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 police station as and when required by the Investigating Officer.
- (iv) Fess of Rs.10,000/- be paid to Mr. Akash E. Madne, learned counsel appointed to represent the cause of respondent no.3 through High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]