



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 CRIMINAL APPEAL NO. 629 OF 2024

Akshay Rajendra Wable

VERSUS

The State of Maharashtra and another

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Advocate for Appellant : Mr. Rahul R. Karpe

APP for Respondent No.1: Mr. S.B. Jadhav

Advocate for Respondent No.2 : Mr. G.N. Chincholkar

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CORAM : SHIVKUMAR DIGE, J.

DATED : 9th AUGUST, 2024.

PER COURT :-

1. This appeal is preferred against the order dated 03.07.2024 passed by the Additional Sessions Judge, Ahmednagar in Special Case No. 123 of 2024 and further seeking regular bail in crime No. 0387 of 2024 registered with Kotwali police station, Ahmednagar, district Ahmednagar for the offences punishable under Sections 376(2)(n), 506 of I.P.C. and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va), 3(2), 3(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. It is the case of the prosecution that the informant and appellant were studying in same class and there was a love affair between them. It is alleged that the appellant sexually assaulted the informant on the promise of marriage. It is alleged that on several

times, the appellant sexually assaulted the informant when the informant insisted him to marry with her. It is alleged that the appellant threatened to kill her.

3. It is the contention of the learned counsel for the appellant that the informant is major. There was a love affair between the appellant and the informant. The sexual relations between the appellant and the informant were consensual. The appellant is behind bar for more than 03 months. The investigation is completed and charge sheet has been filed. The appellant is a college going student. Hence, requested to allow the appeal.

4. It is the contention of learned A.P.P. alongwith learned counsel for the respondent No.2 that the appellant sexually assaulted the informant with promise of marriage. The consent of the informant was under promise of marriage. The informant belongs to S.C. category and the appellant was aware about it. The appellant abused the informant on her caste and threatened her to kill her when she insisted for performing the marriage. If the appellant is released on bail, he may pressurize the prosecution witness and influence the informant. The learned A.P.P. relies on the judgment of Hon'ble Supreme Court in the case of ***Sheikh Arif vs. State of Maharashtra and another***, reported in (2024) 4 SCC 463 and requested to reject

the appeal.

5. I have heard all the learned counsel. Perused the charge sheet and the order passed by the Special Court. Considering the contents of the F.I.R. it appears that the physical relations between the appellant and the informant were consensual. The informant is major. The appellant is behind bar for more than 03 months. Investigation is completed and charge sheet is filed against the appellant. The appellant is a college going student. I have gone through the judgment cited by the learned A.P.P. The facts of the present case and the cited case are different hence not applicable to the present case. Considering above reasons, further detention of the appellant is not required and I pass the following order:-

O R D E R

- I. The appeal is allowed.
- II. The order dated 03.07.2024 passed by the Additional Sessions Judge, Ahmednagar in Special Case No. 123 of 2024 is quashed and set aside.
- III. The applicant in connection with crime No. 0387 of 2024

registered with Kotwali police station, Ahmednagar, district Ahmednagar for the offences punishable under Sections 376(2)(n), 506 of I.P.C. and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va), 3(2), 3(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act be released on executing personal bond in the sum of Rs.20,000/- with one surety of the like amount, on the following condition :-

a) The appellant shall not influence the prosecution witnesses and shall not tamper with the evidence.

6. Since Mr. Chincholkar, learned advocate is appointed to represent the respondent No.2, his legal fees and expenses are quantified at Rs.10,000/-, to be paid by the High Court Legal services Sub Committee, Aurangabad.

(SHIVKUMAR DIGE, J.)

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