



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

934 CRIMINAL APPEAL NO. 759 OF 2024

Vaibhav Vyankati SurayawanshiAppellant

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. G. P. Shinde, Advocate for Appellant.

Mr. M. K. Goyanka, APP for the State.

Mr. P. V. Tapse Patil, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 3rd OCTOBER, 2024.

PER COURT :

1. This Appeal is filed for seeking bail in connection with Crime No. 107/2024, registered with Himayatnagar Police Station, District Nanded for the offences punishable under Section 376 of Indian Penal Code and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and under Section 156 of Maharashtra Police Act.

2. First informant is the major lady who stated that there was friendship between her and Appellant which subsequently turned into a love affair. It is alleged that the Appellant had promised

her to marry and therefore, physical relations were established with her. It is further stated in the First Information Report that he established forceful physical relations with her. The report is lodged as he refused to marry.

3. Learned counsel for Appellant submits both the Appellant and informant are major and it is a case of love affair. It is his submission that merely because for any reason he refused to marry her, it does not become an offence of rape. Learned counsel for the Appellant has drawn attention of the court to the First Information Report bearing no. 100/2024 registered on 07.05.2024 by the informant herself against her own brother and brother-in-law for the reason that the informant and Appellant herein were assaulted by them. It is his submission that if it is so, there is no question of accepting contention in the First Information Report that the Appellant used to keep forcible relations with the informant. It is his further submission that in this case, after filing of the charge-sheet, there is no propriety in keeping the Appellant behind bars.

4. Learned APP and learned counsel for the informant opposed the Appeal by citing seriousness of the crime.

5. Undisputedly, the Appellant and informant are major. Lodging of the report by informant against her brother and brother-in-law on 07.05.2024 indicates that there is substance in the contention of learned counsel for the Appellant that there was love affairs and consensual relationship between them. Now, charge-sheet is filed. Appellant cannot be kept in jail by way of pre-trial conviction. There are no criminal antecedents against the Appellant. He is not likely to flee from justice. His presence can be secured by imposing appropriate condition. Hence, the following order :-

ORDER

- (i) Appeal is allowed.
- (ii) Appellant be released on bail in connection with Crime No. 107/2024, registered with Himayatnagar Police Station, District Nanded for the offences punishable under Section 376 of Indian Penal Code and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, and under Section 156 of Maharashtra Police Act, on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one surety in the like amount.

(iii) He shall attend the concerned police station once in a week.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(v) Learned AGP to communicate this order to the concerned Investigating Officer.

(R. M. JOSHI)
Judge

dyb