



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 784 OF 2024

SANDIP KAILAS GAYKE
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

Ms. Tejshree K. Nalawade, Advocate for the appellant (appointed)
Mr. P. K. Lakhotiya, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 1st OCTOBER, 2024

PER COURT:-

1. Learned counsel for the appellant Mr. Surse is absent. Matter was kept back for some time. Appellant is in jail. Hence, Ms. Tejshree K. Nalawade is appointed to represent the appellant. Learned counsel for the respondent is requested to provide copy of the appeal memo with annexures to the appointed learned counsel for the appellant to work out the matter. Matter is kept back.

2. Heard.

3. This appeal is for regular bail in connection with Crime No. 229/2024, registered with Shivoor Police Station, Aurangabad Dist. Aurangabad for the offences punishable under Sections 376, 506 of Indian Penal Code and Sections 3(1)(w), 3(1)(w)(i), 3(2)(va) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. The first informant gave report to the police by stating that

she had acquaintance with the appellant who used to visit the area frequently. Due to which they were acquainted with each other. It is alleged that about one and half month prior to the lodging of the first information report he took her to Vaijapur on his motorcycle. He obtained thumb impression on certain forms. After eight days thereof he came to the house of the informant and established forcible physical relations with her and took photographs of the same. It is also alleged that the appellant had threatened her to kill. On the basis of this first information report offence came to be registered against the appellant and he was arrested on 22/06/2024.

5. Learned counsel for the appellant submits that the charge-sheet has been filed after completion of investigation. She has drawn attention of the Court to the charge-sheet and more particularly the statement of the husband and step sons of the informant which indicates that if at all it is the case of sexual intercourse it is a consensual relationship. It is thus her submission after conclusion of investigation and filing of charge-sheet, his further custody is not necessary.

6. Learned APP and learned counsel for the informant opposed the appeal.

7. Though in first information report it is stated that the physical relations were forcible, the statements of the husband of the informant and two step sons clearly create a possibility of this being a

case of consensual relationship between the parties. In such circumstances, after filing of the charge-sheet there is no propriety in keeping the appellant behind the bars. Hence, it is fit case for grant of anticipatory bail. Hence, appeal stands allowed. Hence, the order.

ORDER

(i) The appellant in connection with Crime No. 229/2024, registered with Shivoor Police Station, Aurangabad Dist. Aurangabad for the offences punishable under Sections 376, 506 of Indian Penal Code and Sections 3(1)(w), 3(1)(w)(i), 3(2)(va) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, he shall be released on bail on furnishing PR Bond of Rs.30,000/- (Rupees Thirty Thousand only) with one solvent surety in the like amount.

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

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

(iv) Fees of the appointed counsel is quantified Rs. 6000/- and it is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(vi) Learned APP to communicate this order forthwith to concerned police station.

(R. M. JOSHI, J.)

ssp