



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 CRIMINAL APPEAL NO. 783 OF 2024

Kaleem Mehboob Shaikh

VERSUS

The State of Maharashtra and another

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Advocate for Appellant : Mr. G. R. Syed

APP for Respondent No.1: Mr. B. B. Bhise

Advocate for Respondent No.2 : Mr. Sunita G. Sonawane

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CORAM : SHIVKUMAR DIGE, J.

DATED : 19th SEPTEMBER, 2024.

PER COURT :-

1. This appeal is preferred against the order dated 03.07.2024 passed by the Additional Sessions Judge, Ahmednagar below Exh.2 in Special Case No. 67 of 2024 filed in pursuance of crime No.562 of 2021 registered with Parner police station, district Ahmednagar, for the offences punishable under Sections 376, 417, 323, 504, 506 of I.P.C. and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and is seeking regular bail in the said crime.

2. It is the prosecution's case that the informant belongs to Hindu Chambhar caste, which is scheduled caste category. During the period from April, 2018 to December, 2020 from time to time, at village Chambharwadi, Taluka Parner and also at Kharabwadi,

Taluka Chakan, district Pune, by giving false and fake promises to marry her, the appellant committed rape on the informant, due to which she conceived and gave birth to a child. It is alleged that the appellant did not marry her though promised. Therefore, complaint is lodged against the appellant.

3. It is the contention of the learned counsel for the appellant that the informant is major. The relations between the appellant and the informant were consensual. There is delay in lodging the F.I.R. The investigation is completed and the charge sheet has been filed. The appellant is behind bar for more than seven months. The appellant is Karta of the family. It may take time to conclude the trial. The appellant is ready to abide any conditions imposed on him. The further custody of the appellant is not required and requested to allow the appeal.

4. It is the contention of the learned APP alongwith learned counsel for respondent No.2 that the appellant was aware that the informant was of S.C. category. He sexually assaulted her on several occasions on the promise of marriage. Thereafter, he refused to marry with the informant. It shows the involvement of the appellant in the crime. After registration of offence, the appellant was absconded for near about three years. If the appellant is released on

bail, he may abscond and he may threaten the informant and prosecution witnesses, hence, requested to dismiss the appeal.

5. I have heard all the learned counsel. Perused the charge sheet produced on record. The informant is major, around 30 years old. There were physical relations between the appellant and the informant for two years. They were staying together. It appears that the physical relations between the appellant and the informant were consensual. The informant has given birth to a child out of the said relationship. The informant is behind bar for more than 7 months. The investigation is completed and charge sheet has been filed. It may take time to conclude the trial. Considering these aspects, the further detention of the appellant is not required and I pass the following order:-

ORDER

- (i) The appeal is allowed.
- (ii) The order dated 03.07.2024 passed by the Additional Sessions Judge, Ahmednagar below Exh.2 in Special Case No. 67 of 2024 is quashed and set aside.

(iii) The appellant in connection with crime No.562 of 2021 registered with Parner police station, district Ahmednagar, for the offences punishable under Sections 376, 417, 323, 504, 506 of I.P.C. and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on executing personal bond in the sum of Rs.20,000/- with one surety of the like amount on the following conditions:-

(a) the appellant shall attend the concerned police station as and when required by the Investigating Officer.

(b) the surety shall be from Ahmednagar district only.

(c) the appellant shall attend the court dates regularly.

6. It is made clear that the observations made in this order is only for the purpose of deciding this appeal for bail and the trial court shall not be influenced by these observations while deciding the trial.

(SHIVKUMAR DIGE, J.)

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