

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.197 OF 2021

Milind Madhukar Patil

...Appellant

V/s.

The State of Maharashtra and Anr.

...Respondents

Ms. Sakshi S. Kadam *i/b. Mr. Kedar J. Patil for the Appellant.*

Ms. Anuja S. Gotad, *APP for Respondent No.1-State.*

Mr. D.V. Sutar *with Mr. Kiran Kulkarni, Ms. Latika Kabad, Ms. Anjali Shaw and Mr. Deepak Jain for Respondent No.2.*

Mr. Sagar Pawar, PSI, Kurundwad Police Station, Kolhapur, present.

CORAM : SANDEEP V. MARNE, J.

Dated : 25 October 2024.

P.C. :

1. This is an appeal filed under the provisions of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SCST Act**) challenging order dated 25 February 2021 passed by the learned Additional Sessions Judge, Jaysingpur rejecting the application filed by the Appellant for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Crime No.40 of 2021 registered with Kurundwad Police Station, District -Kolhapur, for the offences punishable under Sections 376 and 506 of the Indian Penal Code (IPC) and Sections 3(1)(w)(i)(ii) and 3(2)(va) of the SCST Act.

2. The FIR statement of the Complainant would prima facie indicate existence of consensual sexual relationship. The Complainant alleges sexual intercourse by the Appellant with her in February-2020 at a road side lodge. However, the FIR is lodged a year later on 9 February 2021. Prima facie, the FIR appears to have been lodged only after the Complainant's husband discovered certain information from the mobile phone of the Complainant. The FIR statement does not allege any caste-based utterances but the provisions of Sections 3(1)(w)(i) and 3(2)(w)(ii) of the SCST Act are invoked against the Appellant on account of allegations of sexual relationship against her consent. Considering the delay in lodging the FIR in respect of the alleged incident of February-2020, it is difficult to believe at this stage that there was no consent on the part of the Complainant in respect of the act in question. Complainant has also stated in the FIR statement that there was love relationship between the Complainant and the Appellant.

3. The Appellant is on interim protection granted by this Court on 3 March 2021. Considering the long passage of time from the grant of interim protection in favour of the Appellant and considering the observations made above, in my view the interim protection granted in favour of the Appellant deserves to be made absolute.

4. I accordingly proceed to pass the following order:-

- (i) Order dated 25 February 2021 passed by the learned Additional Sessions Judge, Jaysingpur, is set aside.

- (ii) Interim protection granted in favour of the Appellant by order dated 3 March 2021 is made absolute by directing that in the event of arrest of the Appellant in connection with Crime No.40 of 2021 registered with Kurundwad Police Station, District -Kolhapur, for the offences punishable under Sections 376 and 506 of the Indian Penal Code (IPC) and Sections 3(1)(w)(i)(ii) and 3(2)(va) of the SCST Act, he shall be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (iii) The Appellant shall not contact the Complainant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.
- (iv) Appellant shall attend Trial Court regularly unless exempted from personal appearance.

5. With the above directions the appeal is allowed and disposed of.

6. It is clarified that the observation made herein are prima facie and the Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

[SANDEEP V. MARNE, J.]