

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 40 OF 2024

Navnath Sadhashiv Gavhane .. Appellant
Versus
State of Maharashtra and anr .. Respondents
...

Mr. Ghansham Jadhav for the appellant.
Ms.Vilasini Subramaniam for respondent no.2.
Mr.K.V. Saste, APP for respondent no.1 State.

CORAM: BHARATI DANGRE, J.
DATED : 28th MARCH, 2024

P.C:-

1 My attention is invited to the order dated 23/1/2024 while protecting the appellant from arrest, he was directed to report to the Investigating Officer once a month.

 It is the submission of the counsel for the appellant that he is abided by the said condition.

2 The learned APP state that on completion of investigation, the charge-sheet is filed.

 With the able assistance of the respective counsel including the counsel representing the complainant, I have perused the material in the charge-sheet.

3 Ms.Vilasini Subramanian, representing the respondent would invite my attention to a statement of nephew of the victim to whom she narrated the incident immediately, as he had accompanied her to the house of the appellant. Apart from this statement, which obviously will have to be scanned with great precision as he is an interested witness, prima facie, there is no material in establishing the incident of rape.

Though the learned counsel Ms.Subramaniam, would invite my attention to the medical report, where the Doctor has opined that the possibility of sexual assault cannot be ruled out, the said report prima facie is in contrast with the other portion of the report, as while examining the hymen/private part, it is recorded as under :-

“completely torn, no evidence of fresh injury”

As far as the other columns in column no.19 recording the status of the external genitals, as far as hymen perineum is concerned, the doctor has recorded “completely torn, (old)”.

Hence, the conclusion drawn by the Doctor is not of much assistance. In any case, the merits of the matter shall be appreciated at the time when the appellant face the trial. Presently, the question is whether his custody is required. Since the investigation is complete and charge-sheet is already filed, the order dated 23/1/2024 is made absolute.

The appellant shall continue to report to the Investigating Officer on first Monday of trimester between 4.00 p.m to 6.00 p.m, and he shall in no manner establish any contact with the prosecutrix or her family member or create any pressure, either on her or the prosecution witnesses, or make any attempt to tamper with the prosecution evidence.

Before parting, I would also like to place on record appreciation for Ms.Vilasini Subramaniam, who was appointed by the Legal Services Authority to represent the complainant and who has rendered effectively. The legal Services Authority shall make payment of remuneration, due and payable to her, within an period of four weeks from today.

(SMT. BHARATI DANGRE, J.)