



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 17 OF 2024

KRUSHNA HEMA GODAMBE ..APPELLANT
VS.
THE STATE OF MAHARASHTRA & ANR...RESPONDENTS

Adv. Rupesh A. Zade for the Appellant.

Adv. Kranti Hiwrale for Respondent No.2.

Ms. S.D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 7, 2024

ORAL JUDGMENT:

1. Heard learned counsel for the appellant, learned counsel for respondent No.2 who is appointed through legal aid and learned APP for the State.

2. By this appeal, the appellant prays for bail in respect of the offence punishable under Sections 376 and 506 of the Indian Penal Code and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2), 3(v), 3(1)(r), 3(1)(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered on 10/05/2022 vide C.R. No.86 of 2022 with Kinhavali Police Station, Thane.

3. Learned counsel for respondent No.2 and learned APP vehemently opposed the appeal.

4. Briefly stated, it is the case of the prosecutrix that she was working as a night duty watchman with the Ashramshala. Even the present appellant was working as a night-duty watchman. It is the accusation of the prosecutrix that in the intervening night on 09/05/2022 and 10/05/2022, the appellant forced her to accompany him to the nearby room where he committed the act which is an offence under the aforesaid Sections. In the morning the prosecutrix complained of stomach ache. The appellant, therefore, informed other employees of Ashramshala that she was suffering from stomach ache. A statement of one of the witnesses "Smt. A" at page No.88 of the paperbook reveals that another employee had informed her that the prosecutrix was suffering from stomach ache and the appellant had taken her to the hospital. At the hospital, the prosecutrix stated that she had suffered a fall which was the cause for the stomach ache. It is further recorded that nothing untoward happened with her. Later on, the

prosecutrix alleged that the appellant had committed the act which is an offence under the aforesaid Sections. Learned counsel for the appellant submitted that the possibility of the relationship being consensual can not be ruled out.

5. Learned APP as well as learned counsel for respondent No.2 while opposing the appeal submitted that the materials on record would clearly reveal that there is no reason to disbelieve the version narrated by the prosecutrix as the appellant had threatened her not to inform about the incident to anybody. Learned counsel for the appellant submitted that the charge has not yet been framed. Learned counsel for the appellant, on instructions, made a statement that during the pendency of the trial, the appellant is willing to reside outside Shahapur Taluka. The statement is accepted as an undertaking to this Court.

6. The prosecutrix had initially reported a different version when the appellant was not shown to be complicit. The appellant was arrested on 17/05/2022 and is now in custody for more than 1 year and 8 months. The trial is

unlikely to conclude any time soon. There are no criminal antecedents reported against the appellant. The investigation is complete and the charge-sheet has been filed. In the facts and circumstances of the present case, I am inclined to enlarge the appellant on bail by imposing stringent conditions. Hence, the following order:

ORDER

- a.** The appeal is allowed.
- b.** The appellant- Krushna Hema Godambe in connection with C.R. No.86 of 2022 registered with Kinhavali Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- c.** The appellant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- d.** The appellant shall attend the Investigating Officer of Kinhavali police station once in three months, first Monday of the concerned month, between 11.00 a.m. and 1.00 p.m.
- e.** The appellant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police

Officer. The appellant shall not tamper with evidence.

f. The appellant shall not make any attempt to contact the prosecutrix.

g. The appellant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

h. Except for the purpose of reporting to the Investigating Officer, the appellant shall not enter Shahapur Taluka after being released on bail, till the trial concludes.

i. The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The appeal is disposed of.

8. I appreciate the valuable assistance rendered by Advocate Kranti Hiwrale, who appeared on behalf of respondent No.2 in this proceeding.

(M. S. KARNIK, J.)