



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

CRIMINAL APPEAL NO. 154 OF 2024

PRAKASH DATTU VAYALE

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND

ANR.

..RESPONDENTS

Sr. Advocate M.S. Mohite a/w Adv. S.A. Malkani for the
Appellant.

Adv. Chandni Chavla a/w Adv. Amol Lokhande for
Respondent No.2.

Mr. S.V. Walve, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 04, 2024

P.C. :

1. Heard learned senior advocate Shri Mohite for the
appellant, learned counsel for respondent No.2 and learned
APP for the State.

2. By this appeal, the appellant challenges the order
dated 06/02/2024 passed by the Special Judge, Kalyan,
rejecting the application for pre-arrest bail.

3. The appellant apprehends arrest in First Information
Report (FIR) No. 24 of 2024 dated 13/01/2024 registered
with Hill Line Police Station for the offence punishable under

Sections 376(2)(n), 325, 3232, 504, 506 of the Indian Penal Code and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(v), 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The complainant belongs to a Scheduled Caste community. As per the allegations in the FIR, the complainant was married to one Raju Shrawan Sonawane when she was 15 years old. Five children were born out of the wedlock. In light of the matrimonial discord, the complainant stopped residing with her husband. The complainant's children reside with her husband. Through a common acquaintance, the complainant was introduced to the accused around 20 years ago. The accused was already married at the relevant time. It is alleged that on the false promise to marry, the appellant had physical sexual relations with the complainant from time to time. It is alleged that sometime in August 2019, the accused badly hit the complainant when she suffered a permanent injury to her left lung. It is then alleged that whenever the complainant called upon the accused to fulfil his promise of marriage, he would assault her and abuse her in the name

of her caste. On 19/11/2023, it is alleged that at about 11 p.m. when the complainant was called to the appellant's office to decide the date of marriage, he had forcible sexual relations with the complainant against her wish. The present FIR thereafter came to be lodged on 13/01/2024.

5. The appeal is vehemently opposed by learned APP and learned counsel for respondent No.2. It is submitted that the accusations are serious and based on a false pretext of marriage, the appellant has continued the relations with the complainant for years together. It is submitted that even after the FIR was lodged, the appellant threatened the complainant for which N.C. is lodged on 25/01/2024. It is submitted that the abuse in the name of the caste was made in the presence of witnesses. It is submitted that for all these reasons and in view of the observation of the trial Court, the application for pre-arrest bail be rejected.

6. I have carefully perused the FIR. The appellant and the complainant were in a relationship for more than 20 years. The complainant was a married woman not residing with her husband. The complainant knew that the appellant was married when their relationship commenced. The

relationship, *prima facie*, appears to be consensual in nature. The possibility that the FIR is an outcome of the relationship going sour as contented by the learned senior advocate can not be ruled out. *Prima facie*, it does not appear that the consent of the complainant is based on some misconception of the false promise of marriage. In this view of the matter, I am inclined to allow the appeal by imposing stringent conditions.

7. The appeal is allowed.

8. In the event of arrest of the appellant- Prakash Dattu Vayale in connection with FIR No. 24 of 2024 with Hill Line Police Station, the appellant shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

9. The appellant shall report to the Investigating Officer on 08/03/2024 and 09/03/2024 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.

10. The appellant shall cooperate with the investigation.

11. The appellant shall not reside within the jurisdiction of Hill Line Police Station, Taluka Ulhasnagar, District Thane,

till the filing of the charge-sheet and thereafter, for a period of 3 months.

12. It is open for the complainant to apply to the trial Court or before the appropriate authority for witness protection which application shall be considered on its own merits and in accordance with law.

13. The appellant shall not intimidate or establish any contact with the victim. If he does so, the same shall be viewed seriously.

14. The appeal is disposed of in the above terms.

(M. S. KARNIK, J.)