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

CRIMINAL APPEAL NO.1197 OF 2023

RAJ POPAT MATE

..APPELLANT

VS.

1. THE STATE OF MAHARASHTRA

2. XYZ

..RESPONDENTS

Adv. Narayan G. Rokade a/w Adv. Ajinkya Vilas Taskar a/w
Adv. Udaysinh Deshmukh a/w Adv. Pratibha Pawar for the
appellant.

Mr. S. H. Yadav, APP for the State-respondent No.1.

Adv. Pratik Kalantri for respondent No.2.

Mr. Hemant Bhimrao Rathod, PSI, Panchvati Police Station,
Nashik.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 29, 2024

ORAL JUDGMENT :

1. Heard learned counsel for the appellant, learned APP
for the State and learned counsel for respondent No.2.

2. This is an appeal for quashing and setting aside the
impugned order dated 03.07.2023 rejecting the bail
application passed by the Additional Sessions Judge-5,
Nashik in connection with C.R. No.I-186 of 2022 registered
with Panchvati Police Station, Nashik for the offences
punishable under Sections 376(2)(n), 354(D), 366, 324,

323, 504 of the Indian Penal Code and under Sections 3(i)(1)(r), (w)(i), 3(2)(va), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter "Atrocities Act", for short).

3. The date of the incident is 03.06.2022. The FIR is dated 04.06.2022. The statement of the victim who at the relevant time was 20 years of age was recorded on 04.06.2022. According to the victim the appellant was known to her. The appellant on 04.06.2022 came to her house when only the victim's brother was present. It is alleged that the appellant dragged her out of the house and took her on the motorcycle. It is alleged that the appellant assaulted the victim. The appellant took her to the hospital, when he told her that she should inform the doctor that she fell down from the motorcycle. The supplementary statement of the victim came to be recorded on 07.06.2022. It is alleged that sometime in May 2022 the appellant had forcible sexual physical relations with her in a lodge. It is alleged that the appellant harassed the victim by taking some embarrassing photographs of the victim and

blackmailed her into having sexual physical relations on several occasions against her wishes. It is alleged that the appellant abused her in the name of her caste.

4. Learned APP and learned counsel for respondent No.2 opposed the appeal. It is submitted by learned APP and learned counsel for respondent No.2 that the appellant is a married man who has blackmailed respondent No.2 into having forcible sexual relations with her on the count of making viral the embarrassing photographs that he had of her. It is further submitted that there are allegations in the name of her caste. It is further submitted that the appellant is married and the statement of his mother-in-law would reveal that the appellant assaulted his wife as well.

5. Prima facie, in my opinion the nature of the relations between the appellant and the victim appears to be consensual. Further, there is no allegation of rape in the statement recorded on 04.06.2022. The allegation of rape is made in the supplementary statement recorded on 07.06.2022. The appellant was arrested on 04.06.2022 and is now in custody for more than one year and seven months

with the possibility of the trial concluding any time soon appearing to be remote. Considering the facts and circumstances of the case, in my opinion the appellant should not be deprived the facility of bail as the investigation is complete and the charge-sheet has been filed, however, the same will have to be by imposing stringent conditions as the victim should not be threatened by his presence. The trial is unlikely to conclude any time soon. The appellant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The Criminal Appeal is allowed.
- (b) The impugned order dated 03.07.2023 passed by the Additional Sessions Judge-5, Nashik is quashed and set aside.
- (c) The appellant-Raj Popat Mate in connection with C.R. No.I-186 of 2022 registered with Panchvati Police Station, Nashik shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (d) 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.

(e) The appellant shall attend the Investigating Officer of Panchvati Police Station, Nashik once in three months every first Monday of the concerned month between 4.00 p.m. and 5.00 p.m. commencing March 2024.

(f) 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.

(g) On being released on bail, 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 attending the Court proceedings and reporting to the Investigating Officer, the appellant shall not enter the jurisdiction of Nashik Municipal Corporation limits 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.

(j) It is made clear that any attempt on the part of the appellant to contact the victim or threaten the witnesses shall be viewed seriously which may result in cancellation of this bail.

6. The Criminal Appeal is disposed of.

(M. S. KARNIK, J.)