



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

CRIMINAL APPEAL NO. 1252 OF 2023

Rameshwar Shivaji Vighane ..Appellant
VS.
The State of Maharashtra and anr. ..Respondents

Mr.Suhas B. Rohile, for the appellant.
Mr. Atul B. Sonawane, for Respondent No.2.
Ms. S. D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 24, 2024

ORAL JUDGMENT :

1. Heard learned counsel for the appellant. Learned APP as well as learned counsel for the respondent no.2-complainant vehemently opposed this appeal.
2. This is an appeal for quashing and setting aside the impugned order dated 30/09/2023 passed by the trial Court in respect of C.R. No. 356 of 2020 for the offence registered at Dighi police station, Pune under sections 376, 376(2)(n), 323, 504, 506 read with 34 of the Indian Penal Code, 1860, under sections 3(1)(w)(i)(ii), 3(1)(r)(s), 3(2)(v)(va), 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under section 7(1)(d) of the

Protection of Civil Rights Act.

3. The FIR is dated 23/09/2020. The prosecutrix in her statement recorded on 23/09/2020 alleged that the appellant was her colleague since 2017 in the same company. The appellant proposed marriage. The appellant on the promise of marriage forced the prosecutrix into physical sexual relationship which constitutes an offence under the aforesaid sections. The appellant was time to time promising her that very soon he will marry the prosecutrix. However, some time after October 2019, when the prosecutrix insisted marriage, the appellant in a fit of anger informed her that he is already a married man having a daughter. The appellant informed the prosecutrix that as his parents were not in favour of his marriage with the prosecutrix as she belongs to the lower caste, respecting his parents wish, he solemnized the marriage, though the appellant was in love with the prosecutrix and wanted to marry her. It is then alleged that the appellant abused the prosecutrix in the name of her caste.

4. Learned counsel for the appellant submitted that the relationship between the appellant and the prosecutrix was

consensual in nature. It is further submitted that whether the physical sexual relationship was an outcome of the false promise of marriage will be a factor which will be decided during the trial. The appellant is in the custody for a long time.

5. Learned APP as well as learned counsel for the respondent no.2 opposed the appeal. It is submitted that the allegations made by the prosecutrix satisfy the ingredients constituting the offence and considering the gravity of the allegations, the applicant should not be enlarged on bail. It is further submitted that there is every possibility of the prosecutrix being threatened by the appellant if enlarged on bail as even while in jail, the appellant had told one of the inmates that he will teach the prosecutrix a lesson once released on bail.

6. My attention is invited to the order dated 28/04/2022 passed by this Court in appeal filed for bail on an earlier occasion. When the Court expressed disinclination to grant the bail, learned counsel for the appellant had withdrawn the appeal. This Court had observed that learned trial Judge shall make an effort to complete the trial as far as possible

within 1 year from the date of the order. Thereafter on 10/04/2023, this Court had granted extension of 6 months from 06/02/2023 for completing the trial. Again by an order dated 29/11/2023, this Court had further granted extension of 6 months to complete the trial from 08/09/2023. Learned counsel for respondent no. 2 therefore submitted that till this period is over, the appeal should not be taken up for consideration.

7. The appellant is now in custody for more than 3 years and 4 months. I am informed that though the charges are framed, the witnesses are yet to be examined. In such circumstances, it is unlikely that the trial will conclude within the extended period granted by this Court considering the pendency before the trial Court. There are no criminal antecedents reported against the appellant. I am inclined to enlarge the appellant on bail as any further custody will only be by way of a pre-trial punishment in the facts and circumstance of the case. This Court had as far back as on 28/04/2022 observed that the trial should as far as possible be concluded within 1 year. Considering that the appellant was arrested on 23/09/2020 and has a small

child and as observed earlier, the trial is not likely to conclude soon, I am inclined to enlarge the appellant on bail. The appellant does not appear to be a flight risk. It is the contention of the learned counsel for the respondent no.2 that the complainant will be threatened by the appellant if he is enlarged on bail. To allay such apprehension, I am inclined to enlarge the appellant on bail by imposing conditions. Hence, the following order.

ORDER

- (a) The appeal is allowed.
- (b) The appellant- Rameshwar Shivaji Vighane in connection with C.R. No. 356 of 2020 registered with Dighi police station, Pune shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The appellant is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 6 weeks in lieu of surety.
- (d) Except for the purpose of attending the trial and for reporting to the investigating officer, the appellant shall not enter Pune District till the conclusion of the trial or subject to modification of the condition by the

trial Court.

(e) On being released on bail, the appellant shall furnish his contact number and residential address to the trial Court as well as to the investigating officer while residing outside Pune district.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) It is made clear that any attempt on the part of the appellant to contact, influence or threaten the prosecutrix or the witnesses will be viewed seriously which may result in cancellation of this bail.

8. The appeal is disposed of.

(M. S. KARNIK, J.)