



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

CRIMINAL APPEAL NO.1436 OF 2023

SANDESH SURENDRA SARFARE

..APPELLANT

VS.

1. THE STATE OF MAHARASHTRA

2. XYZ

..RESPONDENTS

Adv. Ajay Laxman Bhise a/w Adv. Tejas Vijaykumar Dhotre
for the appellant.

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

Adv. Aditi Naikare for respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 12, 2024.

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 24.04.2023 rejecting the bail
application passed by the Additional Sessions Judge, Kalyan
in connection with C.R. No.I-261 of 2022 registered with
Badlapur Police Station for the offences punishable under
Sections 376, 377, 323, 506 of the Indian Penal Code and
under Section 3(2)(v) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter "Atrocities Act", for short).

3. The FIR is dated 20.12.2022. The appellant was a dance instructor. The complainant's son joined the academy of the appellant. As per the FIR, the appellant and the complainant are known to each other since the year 2012. It is alleged that taking advantage of the friendship, the appellant committed an act on the respondent No.2 which constitutes an offence under the aforesaid sections.

4. Learned APP as well as learned counsel appointed by this Court for the respondent No.2-complainant opposed the appeal. Learned APP as well as learned counsel for respondent No.2-complainant submitted that time and again the appellant threatened the complainant. The appellant also had some inappropriate photographs of the complainant in his mobile phone which he used as a lever to threaten the complainant into indulging in the aforesaid acts.

5. The appellant was arrested on 23.12.2022. Learned counsel for respondent No.2 submitted that the accusations

are serious and there is every possibility that the appellant may threaten the victim and her family members. It is submitted that the relatives of the appellant are already pressurising the complainant to withdraw the complaint.

6. Learned counsel for the appellant submitted that the relationship is consensual in nature which *prima facie* appears so. In the facts and circumstances of the present case considering the nature of the accusations and as the investigation is complete and the charge-sheet has been filed I am inclined to enlarge the appellant on bail. The appellant is in custody for more than 13 months. The charge has not been framed. The trial is not likely to conclude soon. To allay the apprehension of the complainant that the appellant may tamper with the witnesses, I am inclined to impose stringent conditions. The appellant is not a flight risk.

7. Learned counsel for the appellant on instructions made a statement that the appellant is willing to reside outside the area of Badlapur where the victim is residing. The statement is accepted. Liberty is granted to apply for

modification of this condition before the trial Court after a reasonable time. There are no criminal antecedents reported against the appellant. Hence, the following order :-

ORDER

- (a) The Criminal Appeal is allowed.
- (b) The appellant-Sandesh Surendra Sarfare in connection with C.R. No.I-261 of 2022 registered with Badlapur Police Station 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) 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.

(e) 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.

(f) The appellant shall not enter the area of Badlapur till further orders of the trial Court.

(g) The appellant shall attend the trial regularly.

8. The Criminal Appeal is disposed of.

9. I appreciate the assistance rendered by Advocate Aditi Naikare, who appeared on behalf of respondent No.2 at my request. The Maharashtra State Legal Aid Services Authority may regularize the engagement of Advocate Aditi Naikare.

(M. S. KARNIK, J.)