

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

CRIMINAL APPEAL NO. 487 OF 2024

Harshal Mahesh Mhatre

... Appellant

Versus

The State of Maharashtra And Anr.

... Respondents

Mr. Manoj Mohite, *Sr. Advocate i/b Mr. Rajaram V. Bansode for the Appellant.*

Ms. Shilpa G. Talhar, *APP for Respondent No.1-State.*

Mr. Saurabh Vivek Patil, *Adv. Kshema Mahuli, Mr. Vipul V. Raut for Respondent No.2.*

Mr. Kiran Wagh attaches to Turbhe Police Station, Navi Mumbai is present.

CORAM : SANDEEP V. MARNE, J.

DATE : 18 OCTOBER 2024.

P.C. :

1) This is an Appeal filed under provisions of Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (**SC & ST Act**) challenging the Order dated 24 April 2024 passed by the Additional Sessions Judge, Belapur, Navi Mumbai rejecting the application filed by the Appellant for grant of pre-arrest bail in connection with C.R. No. 143 of 2024 registered with Turbhe MIDC Police Station, Navi Mumbai for offences punishable under

Sections 376(2) (n), 313, 420 of Indian Penal Code and Sections 3(1)(w) (i), 3(1)(w)(ii) of the SC & ST Act.

2) I have heard Mr. Mohite, the learned senior advocate appearing for the Appellant, Ms. Talhar, the learned APP appearing for Respondent No.1-State and Mr. Patil, the learned counsel appearing for Respondent No.2.

3) Perusal of the FIR statement *prima facie* shows that the Complainant and Appellant had discontinued their relationships after October 2022 and thereafter on 7 March 2023 first interaction occurred on mobile message and the couple agreed to meet again on 8 March 2023. The Complainant admits love relationship with the Appellant. The couple met again on 8 March 2023 and it is alleged in the FIR that there was sexual intercourse on 8 March 2023 in a hotel under promise to marry. Complainant alleges in the FIR that the relationship was established under promise of marriage on 8 March 2023. However, it appears that on 31 August 2023, Appellant had lodged complaint with police in which she had stated that on 8 March 2023, she avoided to have sex with the Appellant. The said complaint dated 31 August 2023 indicates that no sexual act is performed on 8 March 2023. Therefore, there is clear inconsistency in the FIR statement as compared with the complaint dated 31 August 2023.

4) Mr. Patil would seek to highlight the aspect that the Appellant is responsible for miscarriage of the Complainant which has led to filing of the complaint and the FIR. He would submit that the

main grouse of the Complainant is about the Appellant and his friend Ms. Nidhi Gamare being responsible for Complainant's miscarriage. However, when it comes to the allegation of miscarriage, the FIR statement states that on 16 April 2023 the Appellant administered unidentified pill to the Complainant, which resulted in her miscarriage. However, in the complaint dated 31 August 2023, there is no allegation of Appellant giving any pill to the Complainant. Therefore, in respect of the allegation of miscarriage as well there appears to be inconsistency in the FIR statement and the complaint dated 31 August 2023.

5) Considering the facts and circumstances of the present case, I am of the view that there is no *prima facie* case for invoking offences under Sections 3(1)(w)(i) and 3(1)(w)(ii) of SC and ST Act. Therefore, bar under provision of Section 18 of the SC & ST Act would not be attracted. Appellant is already on interim protection granted by this Court on 8 May 2024. In that view of the matter, interim protection granted in favour of the Appellant deserves to be made absolute.

6) I accordingly proceed to pass the following order:

- (a) The Order dated 24 April 2024 passed by the Additional Sessions Judge, Belapur, Navi Mumbai is set aside.
- (b) In the event of arrest of the Appellant in C.R. No. 143 of 2024 registered with Turbhe MIDC Police Station, Navi Mumbai for offences punishable under Sections 376(2)

- (n), 313, 420 of Indian Penal Code and Sections 3(1)(w) (i), 3(1)(w)(ii) of the SC & ST Act, he shall be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (c) The Appellant shall appear before the Investigating Officer on 23 and 24 October 2024 between 11.00 a.m. to 2.00 p.m. and shall co-operate with the conduct of investigations.
- (d) Appellant shall attend Trial Court regularly unless exempted from personal appearance.
- (e) Appellant shall not pressurize the informant or any other witnesses acquainted with the facts of the case nor shall tamper with the evidence either directly or indirectly.
- 6) With the above directions, the Appeal is allowed and **disposed of.**

[SANDEEP V. MARNE, J.]