

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

CRIMINAL APPEAL NO.1082 OF 2024

Dheeraj alias Monty
Chandrakant Mukadam
V/S

....Appellant

The State of Maharashtra & Anr.

....Respondents

Mr. Saurabh D. Butala a/w Ms. Manvi Sharma *for the Appellant.*

Ms. Anuja S. Gotad, APP *for Respondent No.1 / State.*

Ms. Avantika Nishad i/b Mr. Jagdish Singh *for Respondent No.2.*

Mr. Mayur Bhujbal, ACP, Turbhe Division, Navi Mumbai, present in Court.

**CORAM: SANDEEP V. MARNE, J.
DATE : 03 DECEMBER 2024.**

P.C.:

1 This is an Appeal filed under the provisions of section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging order dated 9 September 2024 passed by the learned Additional Sessions Judge, Belapur, New Mumbai, rejecting the Application filed by the Appellant for grant of pre-arrest bail in connection with Crime No.280 of 2024 registered with Rabale Police Station for the offences punishable under sections 376(2)(n), 504, 506 read

with section 34 of the Indian Penal Code and sections 3(1)(w), 3(2)(v) and 3(2)(va) of the SC & ST Act.

2 I have heard Mr. Butala, the learned counsel appearing for the Appellant, Ms. Gotad, the learned APP appearing for Respondent No.1/State and Ms. Nishad holding for Mr. Jagdish Singh, the learned counsel appearing for Respondent No.2.

3 After having considered the submissions canvassed by the learned counsel appearing for parties, after going through the FIR statement, *prima facie* there appears to consensual sexual relationship between the couple, which has ensured as per FIR statement since August 2021 till March 2024. The Complainant herself was married earlier and a decree for dissolution of her marriage is apparently passed on 7 May 2024. Therefore whether there can be false promise to marry on the part of the Appellant in August 2021 or at any time prior to 7 May 2024 and securing consent of the Complainant for sexual relationship on that count becomes highly debatable at this stage. Also initially, the offences under provisions of SC & ST Act were not incorporated in the FIR. The same are subsequently added after recording supplementary statement of the Complainant. In that view of the matter, it is difficult to infer at this stage that *prima facie* case for commission of any offence under provisions of SC & ST Act is made out in the present case. Therefore bar under provisions of section 18 of the SC & ST Act would not apply.

4 Appellant is already on interim protection granted by this Court by order dated 4 October 2024. He has remained present before the Investigating Officer as directed by this Court and has co-operated with conduct of investigations. Therefore custodial interrogation of the Appellant at this stage is not warranted. Therefore, interim protection granted in favour of the Appellant by this Court deserves to be made absolute.

5 I accordingly proceed to pass the following order:

- i) Order dated 9 September 2024 passed by the learned Additional Sessions Judge is set aside.
- ii) Interim protection granted in favour of the Appellant by order dated 4 October 2024 is made absolute.
- iii) Appellant shall not attempt to contact or pressurize the Complainant or any of the witnesses associated with the case in any manner nor shall he tamper with the evidence in the case.
- iv) Appellant shall remain present before the Investigating Officer as and when summoned for conduct of further investigations.
- v) Appellant shall attend all dates before the Trial Court unless exempted from personal appearance.

6 With the above directions, the Appeal is **allowed and disposed of.**

(SANDEEP V. MARNE, J.)

SUDARSHAN
RAJALINGAM
KATKAM

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