

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

CRIMINAL APPEAL NO.1289 OF 2024

Yogesh Suresh Konde

....Appellant

V/S

The State of Maharashtra & Anr.

....Respondents

Mr. Rupesh A. Zade *for the Appellant.*

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

Mr. H.V. Khomane, HC, Yavat Police Station, Pune.

CORAM: SANDEEP V. MARNE, J.

DATE : 13 DECEMBER 2024.

P.C.:

1 This Appeal is filed under provisions of section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (**SC & ST Act**) challenging order dated 30 November 2024 passed by the Additional Sessions Judge, Baramati, rejecting the Application filed by the Appellant seeking pre-arrest bail under provisions of section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in connection with C.R. No.1036 of 2024 registered with Yavat Police Station for the offences punishable under sections 69, 89, 115(2), 352, 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 (**BNS**) and sections 3(1)(r)(s), 3(2)(va), 3(1)(w) of the SC & ST Act.

2 I have heard Mr. Zade, the learned counsel appearing for the Appellant and Ms. Gotad, the learned APP appearing for Respondent No.1/State.

3 Perusal of the FIR statement would *prima facie* indicate consensual sexual relationship between the Appellant and the Complainant for a long duration between December 2018 to October 2024. No doubt section 89 of the BNS is invoked in the present case. However alleged abortion against the wish of the Complainant has taken place on 29 March 2022. The delay in lodging the FIR of over two years has not been explained in any manner. So far as provisions of section 69 of the BNS are concerned, FIR statement indicates abortion on two occasions in 2021 and 2022. It therefore becomes difficult to hold that at this juncture the sexual relationship between the duo was either premised on deceitful means or false promise of marriage or without the consent of the Complainant. In that view of the matter, interim protection deserves to be granted in favour of the Appellant till Respondent No.2 puts in her appearance.

4 Issue notice to Respondent No.2, returnable on **31 January 2025.**

5 The concerned Investigating Officer shall record statement of Respondent No.2-Complainant as to whether she wishes to engage private advocate or to avail services of Legal Aid

Advocate. The statement of Respondent no.2 should be produced before the next date of hearing.

6 Till the next date of hearing, in the event of arrest Appellant in connection with C.R. No.1036 of 2024 registered with Yavat Police Station for the offences punishable under sections 69, 89, 115(2), 352, 351(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 (**BNS**) and sections 3(1)(r)(s), 3(2)(va), 3(1)(w) of the SC & ST Act, he shall be released on interim bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two solvent sureties in the lime amount on the following terms and conditions:

- i) Appellant shall remain present on 23 and 24 December 2024 between 11 a.m. and 2 p.m. before the Investigating Officer for conduct of further investigation and co-operate with the investigations.
- ii) Appellant shall not attempt to contact or pressurize the Complainant or any of the witnesses associated with the case in any manner nor shall they tamper with the evidence in the case.

(SANDEEP V. MARNE, J.)

Digitally signed
by
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2024.12.14
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