



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO. 625 OF 2024
IN
CRIMINAL APPEAL NO. 323 OF 2024

Mohit Sanjay Pande Vs State of Maharashtra and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs. S.P. Chavhan, counsel for applicant/appellant
Mr. K.R. Lule, APP for non-applicant/State.
Mr. B.H. Tekam, counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/07/2024.

1. By preferring this application, the applicant/appellant has challenged the order passed by the Special Court under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Nagpur in Criminal Bail Application No. 886/2024.

2. The accusation against the present appellant is on the basis of a report lodged by the victim aged about 31 years on an allegation that she got acquaintance with the present appellant. She was doing work as a beautician. She was called by the present appellant at his house on 24/09/2022, and she was administered some stupefying substances and thereafter drinking tea, she was drowsing, and when she regained consciousness, it was revealed to her that she was subjected for sexual assault. Thereafter, the present appellant promised her for marriage and subjected her for sexual assault time and again. But subsequently, he

refused to marry her therefore, she approached to the police station and lodged a report.

3. After registration of the crime, the appellant approached to the Special Court for grant of bail however, the Special Court has rejected the application.

4. Heard learned counsel for the appellant, she submitted that, there was a consensual sexual relationship between the victim and the present appellant, which resulted into her pregnancy. The victim has also obtained the divorce from her husband but for one or the other reasons, marriage was not performed and therefore, she has lodged the report. Now, the appellant is ready to perform the marriage with her and also ready to shoulder the responsibility of the child. In view of that, he be released on interim bail.

5. Learned APP strongly opposed the said application on the ground that merely because the appellant has shown his willingness to perform the marriage with her, is not sufficient to release the appellant on bail that cannot be a ground to release the appellant on bail. Now, the victim is nobody to give her consent to release the appellant on bail. In view of that, the appeal deserves to be dismissed.

6. Learned counsel for the victim also submitted that out of the acquaintance, they developed the relationship and therefore, there was a physical relationship. Now, they both have decided to perform the marriage with each other. In view of that, the appeal be allowed.

7. After hearing learned counsel for the appellant as

well as respondent No.2 and after considering the recitals of the FIR, it reveals that there was a consensual relationship between the victim and the present appellant which resulted into a physical relationship, and therefore, the victim was pregnant. As the appellant has not performed the marriage with her, she lodged the report against the appellant. The victim is carrying seven months pregnancy and she has also obtained a divorce from her husband. Now, there is no impediment in performing the marriage with the present appellant. Admittedly, merely because, the appellant has shown his willingness to perform the marriage cannot be a reason for releasing the appellant on bail. However, considering the nature of the relationship which was developed between the present appellant and the victim, the prayer for bail can be considered.

8. Moreover, the statements of the victim and the recitals of the FIR, it reveal that the victim who is a grown-up lady, got acquaintance with the present appellant and thereafter, there was a physical relationship between them out of the consent, which resulted into her pregnancy. Now, the investigation is already completed and charge-sheet is already filed therefore, the prayer of the appellant as far as interim bail is concerned can be allowed. Accordingly, I proceed to pass the following order;

- a) The appellant – Mohit Sanjay Pande, shall be released on interim bail, in connection with Crime No. 140/2024 registered with Police Station Hudkeshwar, Nagpur for the offences punishable under Sections 376(2)(n) of the

Indian Penal Code, 1860; and under Section 3(1)(w)(i)(ii), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- b) The appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
- c) Criminal Application (APPA) No. 625/2024 is allowed.
- d) The appeal be placed before this Court after **three weeks**.

[URMILA JOSHI-PHALKE, J.]