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904-APEAL-428-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CRIMINAL APPEAL NO. 428 OF 2025

Nitin Jaychandra Sawji

...Appellant
(Accused No.1)

VERSUS

The State Of Maharashtra and Anr.

...Respondents

WITH

CRIMINAL APPEAL NO. 429 OF 2025

Laxmikant s/o. Jaychandra Sawji

...Appellant
(Accused No.2)

VERSUS

The State Of Maharashtra and Anr.

...Respondents

...

Mr. P. S. Dikle a/w Mr. Pranit Anil Shete, Advocate for Appellant.

Mr. S. B. Jadhav, APP for Respondent No.1-State.

Ms. P. K. Apache, Advocate appointed for Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 8th AUGUST 2025.

PC :-

1. Heard Mr. Dikle, the learned Advocate for the Appellants, Mr. Jadhav, the learned APP for Respondent-State, and Ms. Apache, the learned Advocate appointed for Respondent No.2.

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2. Since both the appeals arise out of same proceedings and facts are also similar, therefore, both the appeals are taken up together with consent of the parties, for final disposal.

3. The appellants are the accused Nos. 1 and 2 respectively, in FIR No. 0307 of 2025 registered with MIDC Waluj Police Station, Chh. Sambhajinagar dated 3rd April 2025, for offences punishable under Section 376 read with 34 of the Indian Penal Code, 1860 and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "Atrocities Act").

4. It is case that the informant-Respondent No.2 lodged the FIR with MIDC Police Station Waluj. It is stated that in the year 2007, she had been to Aurangabad with a school trip when she was in 8th standard. At that time, she came in contact with the Accused No.1 in Sidharth Garden. They started loving each other. Her father came to know about the relationship. He, therefore, married her to one Dattatraya Shejul. She stayed with her husband for two-three years at Ranjangaon Dist.

Chh. Sambhajanagar. In 2012, she left her husband and started residing with the Accused No.1 in relationship in joint family. There are two sons out of the said relationship.

5. In 2022, the brother of the appellant namely, Pravin came to her home with another brother namely, Laxmikant i.e. Accused No.2. All the in-laws had come to her home for Mahalaxmi festival. At that time, Pravin established physical contact with her, which was within the knowledge of Appellant-Nitin, Accused No.1. On the same day in 2022, the cousin of the appellant namely, Raju stayed with them. When the appellant was not at home, this cousin also established physical contact with her. The appellant, however, kept quiet and, on the contrary, abused the informant on her caste. He, thereafter, started beating her and abusing her in filthy language.

6. On 14th April 2024, the Accused No.2 even tried to establish physical contact with her daughter by threatening the informant with dire consequences. He also allegedly made physical relations with her.

She thus alleged that the brother and cousin brother of the appellant maintained a forced relationship with her. It is alleged that the Accused No.2 also established physical relation on 14th April 2024. She thus lodged the FIR with MIDC Police Station. The police registered the offences. Now, the charge-sheet is also filed.

7. The appellant filed an application for anticipatory bail. The same came to be rejected by the learned Additional Sessions Judge, Gangapur by order dated 15th May 2025.

8. Mr. Dikle, the learned Advocate for the appellants vehemently argued that the FIR is lodged with a view to falsely implicate the appellants. From the FIR itself it is clear that the FIR is lodged about more than a year after last such alleged incident. For about a year, the informant did not whisper a word about alleged offences. Even as per the information, she was in a consensual relationship with the Accused No.1. There is nothing to show that the Accused No.1 established physical contact against her will. The allegations of rape are against

other accused persons. There is no offence of rape made out against the Accused No.1.

9. The incident is alleged on 14th April 2024. At that time, the house was already sold to one Vaishali Shah, which shows that the allegation is totally baseless. The entire story is concocted. The statement of son also shows that, in fact, the informant was having an affair with one auto-rickshaw driver. It is the informant who left the company of the appellant and started residing with one auto-rickshaw driver. When the son wanted her to come back and therefore called, she falsely implicated the accused persons. There is no justification given in the FIR as to why there is delay of more than one year. Now, it is more than a year, there is no allegation that the present appellants have tried to pressurize the witnesses or the informant. She has also filed a domestic violence proceedings against the accused No.1 and other accused persons in the Court of learned JMFC, Buldhana on 10th May 2014 where she has given a different story. There the allegations are only of domestic violence. In the proceeding under the Domestic Violence Act, there is not a single

word mentioned about the physical relations by others. The incidents alleged in the present FIR are occurred even prior to filing of domestic violence proceeding. In the FIR, when she has stated that she is being abused since 2020 to 2024, still nothing is stated in the said proceeding. He further submits that the other accused person i.e. Ravindra Ramdas Sawaji has already granted anticipatory bail by this Court vide order dated 10th June 2025 in Criminal Appeal No.363 of 2025. He invited attention to the statement of children in which no allegations are found.

10. Learned APP submits that clearly a case is made out under the provisions of Atrocities Act. Against Accused No.1, there are specific allegation that he had knowledge of the physical relations maintained by other accused persons and still he did not try to prevent the said acts. Against Accused No.2, there are clear allegations that he even tried to have physical relations with the daughter of the informant. There are statements to show that the incidents have taken place. He thus submits that both the appeals deserve to be dismissed.

11. Learned Advocate appointed for respondent vehemently argued that the appellants are aware of caste of the informant and still they maintained relations with her. She thus prays for dismissal of both the appeals.

12. This Court has gone through the complaint. It is pointed out that this Court has already granted bail to Ravindra Ramdas Sawaji. On the ground of party is also argued by the learned Advocate for the appellants. This Court has, therefore, seen the role of the present appellants. From looking to the FIR it is seen that she has given details of instances. Taking the FIR as it is, it is seen that the appellants have committed offence as alleged. The appellants relied upon the statements of son and daughter of the informant recorded under Section 183 of the Bharatiya Sakshya Adhiniyam, 2023. However, they are still minor and staying with the appellant-accused No.1. There is also statement of the informant recorded under Section 183 clearly implicating these appellants. Though it is shown that the FIR is lodged after more than a year, this Court finds that when allegations are made attracting the

provisions of SC and ST (Prevention of Atrocities) Act, the bar under Section 18 of the Atrocities Act comes into play. Though no allegations are made in the petition filed under the provisions of Domestic Violence Act, this Court finds that presently it is not the case to consider the defences of the accused.

13. Considering all above, this Court finds that no case is made out to grant anticipatory bail to the appellants considering section 18 of the Atrocities Act. Hence, the following order:

ORDER

- (i) Both Criminal Appeals stand dismissed and disposed off.
- (ii) Learned Advocate Ms. Apache, is appointed for Respondent No.2 through Legal Aid. Her fees is quantified at Rs.5,000/- to be paid by High Court Legal Aid Services, Sub-Committee Aurangabad.

[KISHORE C. SANT, J.]