

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

Criminal Appeal No. 415 of 2025

Kunal @ Kashinath @ Papu Subhash Darade

Through Yerwada Jail, Pune

R/at: Village Rui, Post Rui,

Taluka Baramati, Dist.Pune

... Appellant

V/s.

State of Maharashtra

... Respondents.

Mr. Pratik Rajopadhye & Ameya Ranade	Advocates for the Appellant.
Mr. H.J. Dedhia	APP for the State.
Mr. Amol Laxman Dhumal	Legal aid advocate appointed for victim.

CORAM : S.M. MODAK, J

DATE : 10th October 2025.

P.C. :

Heard learned Advocate for the Appellant, learned APP and learned Advocate for the first informant. After registration of the offence, the Appellant could not be arrested. Hence, charge-sheet was filed in his absence on 15th February 2023. He came to be arrested on 7th August 2024. The offences are under Sections 376,354D,452,323,504,506 of IPC with Sections 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) and 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. His regular bail was

rejected by the Court of Additional Sessions Judge, Baramati. That is why the present appeal.

2. The FIR is lodged by the victim herself. She has alleged that the Appellant used to visit the matrimonial house in the absence of her husband and used to have physical relationship against her consent. This happened from February 2019 till 8th August 2022. When we read the allegations in the FIR, it is clear that there was physical relationship. Whether it was at her instance or by mutual consent or at the instance of the Appellant. This can be considered when the trial will start. There was statement of minor daughter of the first informant. She has also narrated about visit of one Kunal in absence of her father.

3. The repeated physical relations can be viewed from two angles:

- 1) The Appellant had physical relationship against her consent or by mutual consent.
- 2) The last incident took place on 7th August 2022 when she has refused to have intercourse, Appellant abused her on account of her caste and also humiliated her by narrating to the neighbours. This is the incident after which FIR came to be lodged. First informant along with her husband has changed the venue of residence on various occasions and at every place appellant has taken stock of the situation.

4. During the trial it can be argued that it is the case of the consensual relationship but it is not the case of the prosecution that

after the first incident, the first informant has taken recourse to the Court of law. It is true for several months the Appellant has avoided arrest. Stringent conditions can be imposed for securing his presence. Reliance is also placed on FIR lodged by the first informant against her husband with Baramati police station on 11th August 2022 for the offences under Sections 506, 504,326,324,323. The husband has questioned the first informant about her conduct and being annoyed there is allegation the husband has assaulted her with the help of sickle. This FIR is relied upon to show that the first informant is the leading partner in the act of physical relationship. The trial is at the stage to decide this aspect.

5. I am inclined to grant bail because after August 2024 he has remained in jail without charge being framed. One does not know when the trial will start. There is right to speedy trial. The trial Court in fact is supposed to check about the pendency before them. He has not considered this aspect and even not directed to frame the charge when the bail is refused. I am inclined to grant him bail. Hence, the order:

ORDER

- 1) The Criminal Appeal is allowed.
- 2) The order dated 24th October 2024 passed by Additional Sessions Judge, Baramati, Dist. Pune is quashed and set aside.

- 3) The Appellant-Kunal@Kashinath@Papu Subhash Darade arrested in connection with C.R. No.644/2022 registered with Baramati Taluka Police Station is granted bail on furnishing Personal Bond and Surety Bond of Rs.50,000/-. The Appellant is directed to furnish surety from Taluka Baramati.
- 4) The Appellant shall not threaten the prosecution witnesses or allure or contact them in any manner.
- 5) The Appellant is directed to give attendance to the Baramati Police Station on first Monday of month of November, February and July till conclusion of the trial.
- 6) Needless to say, violating of the above conditions will make the Applicant liable for cancellation of bail after notice.
6. Criminal Appeal stands disposed of in the aforesaid terms.
7. All the parties to act on an authenticated copy of this order.

(S.M. MODAK, J.)