

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

CRIMINAL APPEAL NO.1288 OF 2024

Dattatray Genba Kapre

.... Applicant

Versus

State of Maharashtra & Anr.

.... Respondents

Mr. Satyam H. Nimbalkar a/w Mr. Harshwardhan M. Pawar i/b Mr. Milind D. Pawar, Advocate for the Applicant.

Ms. Poonam P. Bhosale, APP, for the Respondent – State.

Mr. Digvijay S. Kachare, Advocate for Respondent No.2.

Mr. Ajit Patil, PSI, Rajgad Police Station, Pune Rural – Present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 4th APRIL, 2025.

P.C. :

1. The Appellant is challenging the judgment and order dated 12th November, 2024 rejected by the learned Special Sessions Judge, [Under SC & ST (POA) Act], Pune (for short “learned Judge”).

2. The Appellant is seeking regular bail in Crime No.37 of 2024 registered with Rajgad Police Station, Pune Rural, for the offence punishable under Section 376(D) of the Indian Penal Code, 1860 (for short “IPC”).

3. It is prosecution's case that on 4th February, 2024, the Appellant and co-accused entered in house of the first informant. They dragged her for around 100 feet and sexually assaulted her.

3. It is contention of learned counsel for the Appellant that the Appellant has been falsely implicated in this case. Earlier, the Appellant and his wife filed complaint against the employer of the first informant for an offence punishable under Section 307 of the IPC. To counter the said complaint, the present complaint has been lodged against the Appellant. The learned counsel further submitted that the Appellant is around 65 years old, a senior citizen, and his two fingers of hand have been amputated. The Appellant is behind bar for around eight months. Investigation is completed and charge sheet has been filed against the Appellant. Hence, requested to allow the appeal.

5. It is contention of learned APP along with learned counsel for the Respondent No.2 that the Appellant along with co-accused gang raped the first informant by dragging her from her house. The compliant was immediately lodged after the incident. There is no reason to the first informant to involve the Appellant in false case. If Appellant is released on bail, he may threaten the prosecution

witnesses and first informant. Hence, requested to dismiss the appeal.

6. I have heard all learned counsel. Perused charge sheet.

7. It is prosecution's case that the first informant was dragged for 100 feet by the Appellant and co-accused, and thereafter, they committed gang rape on her. The medical report produced on record shows that no injuries were found on the body of the first informant. The medical examination was done within 24 hours of the incident, but the medical report does not show any injury found on the body of the first informant. If she was dragged for around 100 feet certainly some injuries must have caused to her. The Appellant is behind bar around eight months. He is senior citizen. Investigation is completed and charge sheet has been filed. Considering these facts, his further detention is not required, and I pass following order:-

ORDER

- i. The appeal is allowed.
- ii. The Appellant be released on bail in Crime No.37 of 2024 registered with Rajgad Police Station, Pune Rural, on executing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like

amount.

iii. The Appellant shall attend the concerned Police Station

as and when required by the Investigating Officer.

iv. The Appellant shall not contact/influence or threaten

or pressurize the complainant or otherwise tamper

with the prosecution witness.

8. The appeal is allowed in the aforesaid terms and is accordingly disposed of.

9. All the concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)