

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 652 OF 2025

Baburao Sambhaji Mokal

.... Appellant

Versus

The State Of Maharashtra And Anr.

.... Respondents

Mr. Gurav Parkar, Advocate for the Appellant.

Ms. Shilpa Gajare, A.P.P., for the Respondent – State.

Ms. Rukmini Khairnar, Advocate for Respondent No.2.

Mr. Santosh Ramesh Chavan, PSI, Pen Police Station - Present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th AUGUST, 2025.

P.C. :

1. The Appellant apprehends arrest in Crime No.74 of 2025 registered with Pen Police Station, for the offences punishable under Sections 64, 64(2)(M) & 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS Act”), and under Sections 3(1)(r), 3(1)(s), 3(1)(s)(i), 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short, “SC ST Act”).

2. It is prosecution’s case that, the deceased was sexually assaulted by accused No.1 by threatening her. The allegations against the Appellant are that while arguing the bail application of Accused No.1, the learned Advocate for Accused No.1 in order to support his

case had shown video recorded in mobile to the Court. In the said video, it was seen that the Appellant and first informant were engaged in the sexual act. Thereafter, the supplementary statement of the victim was recorded in which she stated that Accused No.1 forced the first informant to have sexual intercourse with the present Appellant, and present Appellant had recorded the said sexual act in his mobile.

3. It is contention of learned senior counsel for the Appellant that as per prosecution's case, the alleged incident is of year 2013. The offence is registered against the Appellant in the year 2025. There is gap of 12 years from the date of incident to date of registration of offence. Learned counsel further submitted that no name of the Appellant is mentioned in the F.I.R. and there are no allegations against him. Only after showing the video by the learned counsel for Accused No.1 in Court, the Appellant's name is involved in this case. Learned counsel further submitted that the investigation is completed and charge sheet has been filed against the Appellant, and requested to allow the appeal.

4. It is contention of learned APP along with learned counsel for Respondent No.2 that, the Appellant had recorded sexual act with the first informant in his mobile, and said video was circulated. The

custodial interrogation of the Appellant is necessary to take search of the said video and to seize his mobile. Learned APP further submitted that son of the present Appellant had threatened the father of the first informant. The NC is filed against the son of the Appellant. If the Appellant is granted bail, he may threaten the first informant and prosecutions witnesses. Hence, requested to dismiss the appeal.

5. I have heard all learned counsel, perused F.I.R. and documents produced on record.

6. The Appellant's name is not mentioned in the F.I.R. The Appellant's name was added after showing the video of sexual act between the Appellant and first informant by Advocate of the Accused No.1 during hearing of bail application. It is alleged that the said video was recorded in the year 2013, whereas, it was shown in the year 2025. There is gap of 12 years after the incident. The first informant did not file any complaint against the Appellant during the said period. Investigation is completed and charges sheet has been filed against the Appellant. Considering these facts, custodial interrogation of the Appellant is not required, and I pass following order:

ORDER

- i. In the event of arrest, the Appellant be enlarged on bail in Crime No. 74 of 2025 registered with Pen

Police Station, on executing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

- ii. The Appellant shall attend the concerned police station as and when required.
- iii. The Appellant shall not attempt to influence the first informant or any person concerned with the case.
- . The appeal is disposed of in the aforesaid terms.

7. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

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

(SHIVKUMAR DIGE, J.)