

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

CRIMINAL APPEAL NO. 835 OF 2025

Kishor Popat Jadhav ...Appellant

Vs.

The State of Maharashtra and Anr. ...Respondents

Mr. Bhalchandra S. Shinde	Advocate for the Appellant
Adv. Kanchan Pawar	Advocate for the Respondent No. 2
Mr. A. S. Gawai	APP for the Respondent-State
API Jeevan Mohite	Indapur Police Station, Pune Rural

CORAM : S. M. MODAK, J.

DATE : 24th SEPTEMBER 2025

P. C. :-

1. Heard learned Advocate for the Appellant-sole accused and learned APP and learned appointed advocate for Respondent No. 2.

2. Appellant is accused of committing rape on the victim on 18.12.2024. The victim is a labourer engaged in the cutting of sugarcane and the crop is to be supplied to the Neera Bheema Co-operative Sugar Factory. On account of that the victim was residing in

the vicinity of that sugar factory. Whereas the Appellant was also resident of that area.

3. On the pretext of introducing customer for the purpose of selling sugarcane crops, the Appellant got acquainted with the victim. On that pretext on 19.12.2024, the appellant persuaded the victim and on 31.12.2024 at about 20.30 hours, the Appellant called the first informant and called her and took her to the agricultural field and had sexual intercourse with her. She was pressurized to have intercourse otherwise her husband will be killed.

4. On 05.01.2025 at about 8.00 p.m. again Appellant called her and that call was taken by her husband. The husband inquired with her and at that juncture, the first informant disclosed about the incident to the husband. That is how F.I.R. came to be lodged on 09.01.2025 for the offence punishable under Sections 64, 351 (2), 351 (3) of the Bharatiya Nyaya Sanhita (BNS) 2023 and Sections 3(1)(r), 3(2)(va), 3 (1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. The Appellant applied for bail before the Sessions Court, Indapur, however he failed. The Police have filed charge-sheet. The

first informant has not appeared for medical examination. She had not appeared for giving statement as per the provision of Section 183 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023. The letter is there on page no. 65. After recording the statements of certain witnesses, Police have filed charge-sheet. After charge-sheet also the Appellant's bail application was rejected by the trial court on 09.06.2025. That is why present appeal.

6. **Learned APP and learned Advocate for the first informant** tried to explain the consequences in which the offence was committed and consequence due to which the first informant has not appeared before two authorities.

7. Whereas **according to learned Advocate for the Appellant**, non co-operation itself shows that F.I.R. is lodged not willingly but unwillingly by her. The plea of the sexual intercourse by consent is taken. If the F.I.R. is read, we find that there is one incident of rape on 31.12.2024. It is true on the basis of the available materials and for deciding the appeal, this Court can make certain observations about plea of the consent.

8. The duration of the interaction is from 18/12/2024 till

05/01/2025 (the last date of call with the husband). The duration is not too long. It is true the first informant has not appeared before two authorities as mentioned above. These circumstances can be considered either against the first informant or in favour of the Appellant. In the normal circumstances, these circumstances can certainly be considered in favour of Appellant. However, in this case, I am not inclined to consider these circumstances in favour of the Appellant. It is for the reason, she was sugarcane crop labourer and they used to stay at particular place for particular duration and they used to shift another location. It is important to note that after the F.I.R., the first informant is not available on the said address. This circumstance, the Court has to consider in favour of the first informant and against the Appellant. So merely, because she has not appeared before two authorities, the benefit cannot be granted to the Appellant.

9. Ultimately, the Court has considered the circumstances in which the offence alleged is committed and subsequent circumstance. **If both circumstances are considered, I am not inclined to allow the appeal.** There are averments which justifies the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

10. There is one more circumstance about filing of the charge-sheet, mean to say, custodial interrogation is not required. In normal case, this could have been considered in favour of the Appellant but provisions of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act warrants Police to file charge-sheet within a stipulated period. For all the reasons, I am not inclined to give benefit to the Appellant.

11. Hence, Appeal stands dismissed.

12. Learned appointed advocate be paid fees as per the Rules.

[S. M. MODAK, J.]