

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1259 OF 2025
WITH
INTERIM APPLICATION NO. 2994 Of 2025
IN
CRIMINAL APPEAL NO. 1259 OF 2025

Shamshad Ajmer Ansari	...Appellant
<i>Versus</i>	
State of Maharashtra and anr.	...Respondents

Mr. O. Jadhav, for the Appellant.
Mr. A. S. Gawai, for the State.
Ms. Deepali Bagla, for the Respondent No.2.

CORAM: R. M. JOSHI, J.

DATED: 5th JANUARY, 2026.

PC:-

1. This Appeal under Section 14A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act is filed under order dated 22th November, 2024 passed by the Additional Sessions Judge, Kalyan in Special Case No. 287 of 2022, whereby the Application for regular bail filed by the Appellant came to be dismissed.

2. The learned counsel for the Appellant submits that the investigation into the crime is already completed with filing of the

charge-sheet about eight months back. It is further submission that even on the basis of the material facts on record, it cannot be said that this is a case of commission of rape by the Appellant on the Victim. In order to support his submission, he placed reliance on the statement of witness which indicates that from June, 2022 onwards the Appellant had left the place of work and in view of the pregnancy carried by the Victim, it cannot be said that the Victim became pregnant on account of the sexual intercourse by the Appellant with her. It is submitted that in any case, the Appellant cannot be kept behind the Bar by way of pre-trial sentence. The Appellant claims to have no criminal history behind him.

3. The learned APP and the learned counsel for the Respondent No.2 opposed the Appeal. It is the contention of the learned counsel for the Respondent No.2 that the offence has been committed against the member of the Scheduled Caste Community and the sexual intercourse cannot be said to be consensual one. In this regard, reference is made to the First Information Report (**FIR**) which indicates that the Victim was given some stupefied substance and the sexual intercourse had been done thereafter with her. It is further argued that on the basis of the attendance register, it cannot be said that the Appellant/Accused was not present at the workplace till 30th June, 2022. It is further submitted that having regard to the entire evidence on record, the involvement of the Appellant is seen in the crime, it is further argued that the Accused who are enlarged on bail are not attending the trial and the possibility of the absconding of the present Appellant would not be ruled out.

4. There is no dispute that the investigation is already completed with filing of the charge-sheet before eight months.

5. This Appeal was heard by this Court and the hearing of the same was deferred in view of the fact that DNA report is yet to be received. Today, the learned APP has placed on record DNA report which does not support the case of the prosecution. Even if it is accepted for the sake of arguments that the Appellant was present at workplace till 30th June, 2022, having regard to the fact that the offence came to be registered at belated stage, it cannot be held that at this stage, the relationship of the Victim and the Accused was not consensual. Needless to say that the inconsistencies in the statements would be considered by the Trial Court during the trial.

6. Appellant has no criminal history behind him. He is not likely to flee from justice. Suffice it to say that, after filing of the charge-sheet, more particularly since DNA report does not support the case of the prosecution, it is a fit case for enlarging of the Appellant by imposing certain conditions.

7. In view of the above, the following order is passed:

ORDER

(i) Appeal stands allowed.

(ii) Impugned order is set aside.

(iii) Application-Exhibit 29 filed in Special Case No.287 of 2022 is allowed.

(iv) Appellant is enlarged on bail by furnishing P. R. bond in a sum of Rs.15,000/- (Fifteen thousand rupees) with one local surely in the like amount.

(v) Appellant is hereby prevented from contacting Victim directly or indirectly or in any manner whatsoever.

(vi) Appellant is further restrained from entering in the territorial jurisdiction of Taluka Ambernath, District Thane till conclusion of the Trial.

8. In view of the above, the Appeal stands disposed of. In view of the disposal of the Appeal, Interim Application No.2994 of 2025 also stands disposed of.

(R. M. JOSHI, J.)