

the “POCSO Act”) and S. 3(1)(w), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the “Atrocities Act”).

3. The learned counsel for the Appellant-accused vehemently argued that report of the medical examination of the victim female child is not reflecting the fact that she was subjected to forcible penetrative sexual assault. He further argued that as per the FIR lodged by Respondent No. 2 – First Informant, alleged obscene video recording clips were seen by Nikita, who appears to be friend of Respondent No. 2. However, her statement does not reflect the fact that she has seen any obscene video of the first informant and the Appellant-accused. It is further argued that statement of Sejal, who happens to be sister of the Appellant-accused does not reflect that video clip seen by her was containing any obscene material. The learned counsel further argued that FIR was lodged on 21.9.2018 whereas the alleged incident took place on 5.9.2019 as well as before that day. With this, the learned counsel argued further pretrial detention of the Appellant-accused is not warranted.

4. On the other hand, the learned APP supported the impugned order by contending that medical evidence is supporting the statement of the victim female child, Respondent No. 2 in respect of penetrative sexual assault.

5. We have considered the submissions so advanced and also perused the material placed on record, including the FIR as well as report of the medical examination of the victim female child. It is seen that the victim female child – Respondent No. 2 is a child of 15 years. She has categorically mentioned the fact that at least on three occasions, she was subjected to penetrative sexual assault by the Appellant-accused, on the pretext of deleting selfie as well as video clips revealing the victim female child and the Appellant-accused in intimate position. Even if we ignore this fact, that the act was because of allurements of deleting the video clips, still statement of the victim female child shows that she was subjected to penetrative sexual assault by the Appellant-accused. Version of the victim female child is gaining corroboration from report of her medical examination. Similarly, statement of

witnesses show that they had seen the victim female child as well as Appellant-accused together. In this view of the matter, considering the fact that there is prima-facie complicity of the Appellant-accused in the alleged offence, no case for interference is made out, as also no infirmity can be found in the impugned order rejecting the claim of the Appellant-accused for his release on bail. In this view of the matter, appeal is dismissed.

6. However, the learned Special Judge / trial court shall abide by the provisions of Section 35 of the POCSO Act to complete the trial within a period of one year from the date of taking cognizance of the offence. Needless to state that all observations made herein are prima-facie and shall have no bearing on the trial. Appeal is accordingly disposed of.

Sd/-
[A. M. BADAR, J.]

Sd/-
[INDRAJIT MAHANTY, J.]

Vinayak Halemath