

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

CRIMINAL APPEAL NO. 1090 OF 2019

Prasad Dattatray Jadhav .. Appellant

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr. Raju Suryawanshi for the Appellant.

Mr. V. V. Gangurde APP for the Respondent/State.

Mr. Kisan Gavit, ACP, West Division, Bhiwandi.

CORAM: P. N. DESHMUKH, J.

DATED : 1st OCTOBER, 2019.

P.C:-

1. None for the respondent No.2, though appears to be served from the perusal of the report, copy of which is placed on record by the learned APP and signed by the A.C.P., West Division, Bhiwandi, District-Thane.

2. Heard learned counsel for the appellant. Learned counsel for the appellant submits that from the report, no

case attracting provisions of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are attracted against the present appellant and further submitted that so far as appellant is concerned, provisions of Section 8 and 12 of Protection of Children from Sexual Offences Act, 2012 if at all attracted, they are punishable for less than 5 years and has thus, contended that appeal be allowed.

3. Learned APP on instructions made statement that chargesheet is already filed in the competent Court and submitted that there is prima facie case against appellant attracting contravention of provisions of Protection of Children from Sexual Offences Act, 2012 and The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and has therefore, submitted that appeal be rejected.

4. F.I.R. would reveal that offence punishable under Section 3(1) (r), 3(1) (s), 3(1) (w) (i) (ii), and 3(2) (va) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are registered in the present crime, in addition to offence punishable under Section 8 and 12 of the

Protection of Children from Sexual Offences Act, 2012. The maximum punishment imposed for the offence punishable under Section 8 is not less than 3 years but which may extend to 5 years. While for the offence punishable under Section 12, the punishment which can be imposed is upto 3 years and fine.

5. In the background of above and perusal of F.I.R., revealed that though appellant's involvement is prima facie found in an incident dated 24th February, 2019 involving minor victim aged 12 years thereby, contravening the above provisions of Protection of Children from Sexual Offences Act, 2012. There is no application of any of the provisions of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Considering the punishment which can be imposed upon appellant under the Protection of Children from Sexual Offences Act, 2012, thus, would be maximum punishment upto 5 years for the offence punishable under Section 8 of Protection of Children from Sexual Offences Act, 2012. In that view of the matter and since, from another incident dated 3rd March, 2019 appellant's involvement is of abusing complainant, no abuses based on caste are found

to be given by him, even in an incident alleged to have been occurred on 3rd March, 2019, no contravention of provisions of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is prima facie found. In that view of the matter and as punishment for the offence attracting in this crime as aforesaid and since, investigation is completed and chargesheet is filed and as appellant is in jail since 3rd March, 2019, appeal is liable to be allowed by imposing suitable conditions as per below order:-

ORDER

1. Appeal is allowed.
2. Appellant- Prasad Dattatray Jadhav shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
3. While on bail, appellant shall not enter into the territorial jurisdiction of Bhiwandi Police Station, District -Thane until further orders.
4. Appellant shall mark his presence with concerned police station within whose

jurisdiction he prefers to reside.

5. Appellant shall inform his address and Police Station within whose jurisdiction he would reside to the Investigating Officer, in Crime No. 112 of 2019.

(P. N. DESHMUKH, J.)