

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL (APEAL) NO. 21 OF 2019

(Nageshwar @ Shrikant s/o Madhukar Telange vs. The State of Maharashtra thr. Sub-Divisional Police Officer, Pandharkawda through PSO, Pandharkawda, District – Yavatmal & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri Muzammil Hussain, Advocate for the appellant.
Shri M.K. Pathan, APP for respondent No. 1.
Shri Vikas Kulsange, Advocate for respondent No. 2.

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**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
AUGUST 13, 2019.**

This is an Appeal under Section 14-A of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, against an order of rejection dated 02.11.2018 in Misc. Bail Application No. 131 of 2018 passed by the Special Judge as well as Ad-hoc Additional Sessions Judge, Kelapur, District – Yavatmal.

Heard Shri Muzammil Hussain, Advocate for the appellant, Shri M.K. Pathan, APP for respondent No. 1 and Shri Vikas Kulsange, Advocate for respondent No. 2.

At the outset, the appellant is charge sheeted for the offence punishable under Section

376(3) of the Indian Penal Code and Section 3(2) (va) and 3(1)(w)(i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

A perusal of First Information Report along with Medical report shows *prima facie* case for the offence of rape. The girl belongs to Gond (ST) community and she is aged about 12 years. It is alleged that prior to 7 to 8 days, the appellant, who belongs to Kunbi community and is a neighbour of the girl, took the minor girl to the cattle shed and removed her clothes so also his clothes and inserted his finger in her vagina and also tried to commit forcible sexual intercourse. She disclosed this incident to her mother when she suffered abdominal pain.

The statement of Police Patil of the village – Sau. Darshna Manoj Yedme shows that the minor girl with her mother came to her and disclosed about the incident. With the assistance of Police Patil, FIR came to be lodged against the appellant.

The medical examination report shows hymen injuries 'present'.

Looking to the age of the girl and allegations against the appellant and the fact that the appellant is her neighbour, there is every likelihood of tampering with the witness. The learned trial Court, in our opinion, has correctly rejected the application.

In the circumstances, we do not find merit in this Appeal and the same is required to be dismissed and it is accordingly dismissed.

JUDGE

JUDGE

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