

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

CRIMINAL APPEAL NO. 37 OF 2019

Sachin Shivpal Bisen,
Aged about 22 years, Occu.: Labour
R/o. Gangazari, District : Gondia.

.... **APPELLANT.**

// **VERSUS** //

1. State of Maharashtra,
Through P.S.O.Gangazari,
District : Gondia.
2. Charabai W/o. Kailas Kodape,
aged about 45 years, Occupation:
Household, R/o. Majitpur,
Gangazari, District : Gondia.

.... **RESPONDENTS.**

Shri A.M.Shukla and Shri V.S.Mishra, Advocates for Appellant.
Shri S.M.Ukey, Addl.P.P. for Respondent No.1.

CORAM : Z.A.HAQ AND VINAY JOSHI, JJ.
DATED : MARCH 13, 2019.

CRI.APPLN.NO. 101/2019.

For the reasons mentioned in the application, the Criminal Application
is **allowed**. The necessary amendment be carried out forthwith.

ORAL JUDGMENT : (Per : Vinay Joshi, J.)

1. Heard learned advocate for the appellant and the learned Additional Public Prosecutor for the respondent No.1/ State. The respondent No.2 remained absent, though served.

2. **ADMIT.**

3. Heard finally by consent of the parties present.

4. Being aggrieved and dissatisfied by the order of refusal of bail dated 18/12/2018 passed by the learned Additional Sessions Judge, Gondia, this appeal in terms of bail under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been preferred and the appellant/ accused ultimately prayed for grant of regular bail as per Section 439 of the Code of Criminal Procedure.

5. At the instance of First Information Report dated 03/03/2018 lodged by mother of the victim, the offence came to be registered for commission of the offences punishable under Sections 342, 363, 376, 506 of the Indian Penal Code read with Sections 4 and 16 of the Protection of

Children from Sexual Offences Act, 2012 and Section 3(2)(v), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The complainant has stated the story which has been conveyed to her by the victim aged about 17 years, who is her daughter.

6. With the assistance of the learned counsel, we have gone through the police papers, particularly, statement of the victim. It reveals that the victim disclosed that on 08/02/2018 she travelled along with the accused at certain place and have lived with the family of the friend of the accused where some other persons were also residing. *Prima-facie*, it appears that the victim voluntarily stayed at the said house and ultimately she stated that she was brought back by her parents after two days. The statement does not reflect element of force or compulsion. In this case, the investigation is complete and charge-sheet has been filed. The appellant/accused is in jail from 10/04/2018. The victim is 17 years of age i.e. the age of discretion. Taking stock of the totality of the circumstances, we feel that this is a fit case to grant bail by imposing certain conditions.

Hence, the following order:

- i) The appeal stands **allowed**.

- ii) The impugned order dated 18th December 2018 passed below Exh.5 by the Additional Sessions Court in Spl. (POCSO) No. 50 of 2018 is quashed and set aside.
- iii) The appellant/accused be released on bail on his furnishing P.R. Bond of Rs.Twenty Five Thousand with one or two sureties in the like amount.
- iv) The appellant/accused shall attend concerned Police Station as and when required by the Investigating Agency.
- v) The appellant/accused shall not tamper with the prosecution evidence nor try to contact any person connected with the crime.

CRI.APPLN.NO. 100/2019.

In view of disposal of the appeal, the application praying for grant of time to file typed copies of faint pages and hand written pages does not survive, hence, it is **disposed**.

(VINAY JOSHI, J)

(Z.A.HAQ, J.)