

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

CRIMINAL APPEAL (APEAL) NO. 343/2019.

Subhash s/o Hanumant Deshmukh, Gadchiroli

Vs.

State of Maharashtra, thr.PSO, PS Armori, District Gadchiroli & Anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.C.Jaltare, Advocate for appellant.

Shri A.D.Sonak, APP for respondent No.1/State.

CORAM: P.N. DESHMUKH & PUSHPA V. GANEDIWALA, JJ.
DATE : 05th SEPTEMBER, 2019.

This is an appeal filed under Section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act of 1989" in short). The challenge in this appeal is to the order dated 29/04/2019 passed the learned Additional Sessions Judge, Gadchiroli in Criminal Bail Application No. 243/2019, whereby the bail application of the appellant has been rejected.

We have heard the learned counsel for both the parties and perused the record. The appellant is chargesheeted in Crime No. 51/2019, registered at Police Station, Armori, District Gadchiroli for the offence punishable under Section 376 of the Indian Penal Code

and Sections 3(1)(w)(ii) and 3(2)(vi) of the Act of 1989.

The prosecution story in brief is that on 23/02/2019 when the prosecutrix was working alone in her field, at around 9.30 am, the owner of adjoining field came to her and committed forcible sexual intercourse with her. After that, she wore her clothes and came to her house and was sobbing. She informed about the incident to her mother-in-law. Thereafter, she lodged the First Information Report against the present appellant.

The learned counsel for the appellant states that when the prosecutrix and the appellant were sitting together in her field, the mother-in-law of the prosecutrix came to the field and quarreled with the victim. At the instance of her mother-in-law, she lodged the report. In the chargesheet, except the statement of the prosecutrix, there is no other material to substantiate her version. The prosecution could not file the Chemical Analyser's report on record in spite of sufficient opportunity was given to them. The learned Additional Sessions Judge, Gadchiroli has rejected the bail application of the appellant mainly on the ground of seriousness of the offence and the possibility of pressurizing the victim by the appellant. The prosecutrix is a matured lady of 32 years age. The story

put in the defence of the accused appears to be quite probable. The appellant is in jail since 24/02/2019 i.e. from more than six months.

Thus, in our opinion, the impugned order cannot be sustained and the same will have to be quashed and set aside. On stringent conditions, the appellant may be released on bail. We pass the following order:-

ORDER.

- 1] The Criminal Appeal is allowed.
- 2] The appellant/accused - Subhash s/o Hanumant Deshmukh shall be released on bail on executing P.R. bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one surety in the like amount.
- 3] On being released on bail, appellant shall mark his presence with the Police Station, Armori, District Gadchiroli on the first day of each month initially for a period of six months and thereafter quarterly on the first day of each such month, pending trial.
- 4] The appellant shall not temper with the prosecution witness, in any manner.

JUDGE

JUDGE