

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 BAIL APPLICATION NO.52 OF 2021

BABITA W/O ANGAT PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bobde Sopan G.
APP for Respondent-State : Mr. A. M .Phule.
...

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 03-03-2021.

PER COURT :

1. It appears that initially the First Information Report was under Section 363, 366-A, 354 read with 34 of the Indian Penal Code and Section 8 and 17 of The Protection of Children from Sexual Offences (POCSO) Act, 2012. However, it appears that thereafter when the charge-sheet is filed, Section 3 (1) (w) (i) (ii) and Section 4 (i) 1 (s) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been added. Under such circumstance, the remedy is by way of Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and therefore, liberty will have to be granted to the applicant to file appropriate proceedings as it appears that earlier he had filed the Criminal Appeal No.1191 of 2019 for regular bail which was disposed of as withdrawn

by this Court on 21-02-2020. But then it appear that inadvertently this application has been filed under Section 439 of Code of Criminal Procedure.

2. In view of above, the applicant is allowed to withdraw the present application with liberty to file the criminal appeal as contemplated under Section 14-A of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989. Application stands disposed of as withdrawn.

3. It will not be out of place to mention here that the applicant's bail application under Section 439 of Code of Criminal Procedure was rejected by the Special Judge on 23-10-2020 and he had approached this Court on 08-01-2021. Inadvertence in proceeding with a matter under different provisions of law would be considered by the concerned Court.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-