

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.274 OF 2021

Sagar Vitthal Nalavade

.... Appellant

Versus

The State of Maharashtra and another

.... Respondents

....

Mr. Ashok Kumar Dubey, Advocate i/b. SAVJ Law Solutions, for the Appellant.

Mr. K.V. Saste, APP for Respondent No.1 -State.

None for the Respondent No.2.

....

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 15 DECEMBER 2021

P.C.

This is an appeal challenging the order passed by the Special Court, Satara dated 13 March 2020 rejecting the application filed by the Appellant for bail and for seeking to be released on bail.

2. The Appellant is an accused in Special Case No.63/2019 arising out of F.I.R. No.102/2019 registered with Phaltan Rural Police Station, Satara under Sections 363, 354(A) of the Indian Penal Code read with Section 3(1)(w)(i) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Section 12 of the Protection of Children from Sexual Offences Act, 2012

3. The case of the prosecution is that the daughter of the informant, aged 15 years, studying in ninth standard, left home stating that she is going to attend a programme. She did not return home and, therefore, on 9 March 2019, the father of the minor filed a missing person complaint at Phaltan Rural Police Station. Accordingly, C.R. No.102/2019 was filed for the offence punishable under Section 363 of the Indian Penal Code. Next day the minor reached her friends place at Barshi where she disclosed that the accused committed forcible sexual intercourse. Her supplementary statement was recorded on 19 March 2019. It is the prosecution case that the accused came to the school where the minor was studying, took her to Phaltan on a motorcycle and took her to a lodge and committed forcible sexual intercourse. Since the informant belongs to Scheduled Caste, Section 3(1)(w)(i) was made applicable. Thereafter the Appellant applied for bail which was rejected by the impugned order.

4. The learned counsel for the Appellant then submitted that the informant had earlier filed Missing Person's Complaint which was withdrawn. Nothing much turns on this submission as at that point the informant was not aware about whereabouts of the minor and after she reached her friends place at Barshi the further position was disclosed.

5. The learned counsel for the Appellant submitted that the minor was around sixteen years old and she was aware as to the

consequences. This submission also cannot be accepted. The survivor girl falls within the definition of a minor under the relevant law. Her consent if at all any also will be of no relevance. The statement of the friend of the minor recorded to whom the minor disclosed the incident, is clear.

6. Therefore, no case for grant of bail is made out. The learned Special Judge has rightly rejected the application.

7. The Appeal is accordingly dismissed.

8. As regards the request for expediting the trial, it is open to the Appellant to make an application to the learned Special Judge for expediting the trial, and it is entirely for the learned Special Judge to take decision depending on the workload.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

Deshmane (PS)