

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL APPEAL NO. 1501 OF 2019

Kisan Lakshman Rathod

... Appellant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Ajinkya Badar i/b. Sampada Junnare for the Appellant

Mr. J.P. Yagnik, APP for the Respondent – State

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

DATE : 1 DECEMBER 2021

P.C. :-

By this Appeal the Appellant is seeking to be enlarged on bail in connection with FIR No. 260 of 2019 filed at Akkalkot North Police Station. The FIR was lodged for offences punishable under Section 463, 376(2)(j), 376(2)(d) of the Indian Penal Code, Section 4,8,12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section (3)(1)(w)(i), 3(1)(w)(ii), 3(2)(v)(a) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The case of the prosecution that the 15 years old victim girl was studying in 10th Standard and while she was walking towards her school, the Appellant and the co-accused Kiran Borkar accosted to her. She was forced to sit on motorcycle, taken to the nearby isolated area and thereafter the victim was raped.

3. The learned Counsel for the Appellant submitted that apart from the statement of the victim and the family members, there is no other evidence. The learned Counsel for the Appellant submitted that there was a love affair between the Appellant and the victim and it was out of consent that the incident took place.

4. This submission cannot be accepted. The statements of the relatives and the statement of the victim are clear and cogent. The argument of consent cannot be accepted considering the age of the victim and the provisions of the Protection of Child from Sexual Offences Act, 2012 which is applied.

5. Considering these facts, we do not find that any case is made out for grant of bail. The learned Special Judge has considered the matter and has rightly found it not a fit case for grant of bail.

6. The Appeal is dismissed.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.