

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

CRIMINAL APPEAL NO.226 OF 2021.

Priti w/o. Manish Warjurkar,
Aged about 28 Years. Occ.: Caterers,
R/o. Plot no.101, Gngabai Ghat Road,
Bhuteshwar Nagar, Mahal, Nagpur.
(Presently behind bars in Central
Prison, Nagpur)

.... **APPELLANT**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station Imamwada,
Nagpur.
2. Pragati Amasn Sontakke,
Age – 23, Occ. - Housewife,
R/o. Medical Savhat, Qtr. No.-5/17,
Imamwada, Nagpur.

.... **RESPONDENTS**

None for the appellant.

Shri S. M. Ghodeswar, A.P.P for the respondent No.1/State.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 21.06.2021.

ORAL JUDGMENT : [PER: AMIT B. BORKAR, J.]

1. This is an appeal under section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 15.06.2020 passed by the Additional Sessions Judge – 11, Nagpur in Miscellaneous Application No.1186/2020 rejecting application of the appellant under Section 439 of the Code of Criminal Procedure in relation to the Crime No.

335/2019 for the offences punishable under Sections 363, 370, 376, 465, 468, 471 read with Section 34 of the Indian Penal Code, Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, Section 9 and 10 of the Prohibition of Child Marriage Act, 2006 and Section 3(1)(w)(i), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The First Information Report came to be registered with the accusations that one minor girl having name Muskan Parmeshwar Shendre, aged 16 years was kidnapped from lawful guardianship. During the investigation, one Baksariya found post uploaded by the victim and on the basis of said face book post, the investigating agency traced the victim. The statement of victim recorded by the investigating agency disclosed name of the appellant alongwith other accused. It is alleged that during the investigation it is revealed that it is the appellant, who is the main accused in the offence. The investigating agency after completion of investigation has filed charge-sheet against the appellant and others.

3. The present appellant filed Miscellaneous Criminal Application No.1186/2020 before the learned Additional Sessions Judge – 11, Nagpur seeking bail under section 439 of Code of Criminal Procedure which was dismissed. Appellant challenged order dated 15.06.2020 rejecting bail application by way of filing

Criminal Appeal No.234/2020. This Court (Coram : Z. A. Haq and Amit B. Borkar, JJ), by order dated 23.09.2020 dismissed the said criminal appeal on merits by reasoned order.

4. Though, the order dated 15.06.2020 was challenged in Criminal Appeal No.234/2020 and same was dismissed on 23.09.2020, the appellant has again on 09.05.2021 filed present appeal challenging same order dated 15.06.2020.

5. When the matter was called out on 14.06.2021 in the morning session, the Advocate for the appellant was absent and therefore, the matter was kept in the afternoon session. Even, in the afternoon session, the Advocate for the appellant was absent and therefore, in order to give one more chance to the Advocate for the appellant, the appeal was adjourned by one week. Today, again the Advocate for the appellant was absent when the matter was called out and therefore, the matter was passed over to grant one more opportunity to the Advocate for the appellant. Even on second call, the Advocate for the appellant is absent.

6. We have carefully considered the allegations in the First Information Report and the material produced by the investigating agency in the form of charge-sheet. On perusal of the material on record, it appears that the appellant had already challenged the order impugned in the present appeal by way of filing Criminal

Appeal No.234/2020. The said appeal has been dismissed on merits by this Court on 23.09.2020. Once the impugned order dated 15.06.2020 has attained finality, the present appeal challenging the same order cannot be entertained. The appellant has failed to bring on record any change in circumstances. We are therefore of the view that there is no merit in the present appeal.

7. The appeal is dismissed.

CRIMINAL APPLICATION (APPA) NO.333/2021.

In view of dismissal of main appeal, Criminal Application (APPA) No.333/2021 for grant of time to file certified copy of Misc. Criminal Application No.1186/2020 does not survive. Hence, it is disposed.

JUDGE

JUDGE