

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

CRIMINAL APPEAL NO. 432 OF 2021

(Ashok s/o Govardhan Yadav, R/o Gao Larkhurd, Tah. Jatara, District Tikamgarh (MP) Vs.
State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms. Meena Hiwase, Advocate for the appellant.
Mr. T.A. Mirza, A.P.P. for respondent No.1.

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**CORAM : M.S. SONAK &
PUSHPA V. GANEDIWALA, JJ.
DECEMBER 02, 2021.**

Heard.

2] This Appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SC ST Act") is preferred against the order of rejection of bail to the appellant dated 19/01/2021 passed by the Additional Sessions Judge – 10, Nagpur in Misc. Criminal Case No. 3563/2020.

3] The appellant Ashok Govardhan Yadav is said to be arrested on 06/10/2020 in Crime No.593/2020 dated 03/10/2020 registered at Police Station Gittikhadan, Nagpur for the offences punishable under Sections 366, 370, 376(2)(n) and 323 read with Section 34 of the Indian Penal Code, Sections 4 and 5 of the Immoral Traffic (Prevention)

Act, 1956 (for short “ITPA”) and Sections 3(1)(e) and 3(1)(i) of the SC ST Act.

4] It is stated that the charge-sheet in the above crime was filed before the Special Court followed by Special Case No. 619/2020.

5] It is the case of the prosecution that on 26/08/2020, at around 2:30 pm, the complainant, aged around 23 years and her sister, aged around 20 years (victims of the offence), resident of Gittikhadan, Nagpur, went in a four wheeler with one Akash Shrivastava and Sushil Paisadeli to Koradi for job of selling sanitary napkins for salary of Rs.10,000/-. The complainant was told that she would be given a job at Hinganghat, but she was taken to Madhya Pradesh on 27/08/2020 at Kuvarpura in the house of one Pritpalsingh @ Mulchand Kakka Ghoshi. That on the third day, in the house of Pritpalsingh, the accused Sushil told her that she would have to marry for eight days with different boys, and after eight days, she would be taken back from that house. It is further the case of the prosecution that the complainant was sold for Rs.90,000/- and her sister, i.e., the another victim was sold for Rs.1,00,000/- to the present appellant. That the complainant and her sister were married forcefully and they were physically exploited by the appellant.

6] It is further stated that both the victims were medically examined, and it was opined that sexual intercourse cannot be ruled out.

7] It is the grievance of the appellant that in the impugned order, the learned Additional Sessions Judge has failed to appreciate the fact that the victim girls had crossed their age of majority and that the investigation in the crime has already been completed.

8] The respondent/ State, vide its reply affidavit, resisted grant of bail to the appellant considering the nature of offence under the ITPA.

9] We have considered the submissions put forth on behalf of both the sides and perused the record.

10] At the outset, the statements of the victim girls, recorded during investigation, *prima facie* make out a case of immoral trafficking of the girls on the pretext of getting them a job. The statements of the victim girls further reveal that both the girls were sold for monetary value of Rs.90,000/- and Rs.1,00,000/-. The appellant is a purchaser of one of the girls.

11] Further, the medical examination of the victim girls also supports the case of the prosecution

inasmuch as it says that sexual assault cannot be ruled out. It appears, these girls have been cheated and exploited systematically and in an organized way. They have been asked to marry the boys for 8 days. The offence under the provisions of ITPA is, indeed, a serious offence, having repercussions on the society. Taking a serious view of the offence under ITPA, the Hon'ble Supreme Court in the case of **Guria, Swayam Sevi Sansthan Vs. State of Uttar Pradesh and Others, (2009) 15 SCC 75**, observed that the question as regards grant of bail should be considered having regard to the gravity of the offence wherewith the accused had been charged. The Hon'ble Supreme Court in the said case was considering the prayer for the cancellation of the bail granted to the accused charged with the offence under the ITPA. The Hon'ble Supreme Court observed that the ITPA was enacted for the prevention of immoral traffic, however, it is unfortunate that the investigating officers and the courts ordinarily fail to bear in mind a distinction between the rescued children including girls, on the one hand, and the persons who have been organizing such immoral traffic in a systematic manner and have otherwise been aiding and abetting the commission of offences thereunder.

12] Having regard to the law laid down as aforesaid and the serious allegations levelled against the appellant, we are of the considered view that no case for interference with the impugned order is made out. The learned Special Court has correctly applied the principle of law while rejecting the bail application. The Appeal thus being devoid of merits deserves to be dismissed and is accordingly dismissed.

(PUSHPA V. GANEDIWALA, J.)

(M.S. SONAK, J.)

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