

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

CRIMINAL APPEAL NO. 417 OF 2021

Swapnil s/o Shamdeo Pal,
 Aged 21 years, Occ. Private,
 R/o Mangli, Tq – Nagbhid,
 Distt. Chandrapur.

... **APPELLANT**

VERSUS

1. State of Maharashtra,
 Through P.S.O. Nagbhid,
 Distt.Chandrapur.
2. Ku. Rohini Dnyaneshwar Madavi,
 Age about 14 years, Occ – Student,
 R/o Mangali, Tq- Nagbhid,
 Distt. Chandrapur.

... **RESPONDENT**

Shri N.S. Giripunje, Advocate for the appellant.
 Shri A.R. Chutke, A.P.P. for respondent no.1/State
 Mrs. Jaya Mishra, Advocate (appointed) for respondent no.2.

CORAM : VINAY JOSHI, J.

DATED. : 18/11/2021

ORAL JUDGMENT :

1. Heard. **ADMIT.** By consent, the appeal is taken up for final

hearing.

2. This is an appeal under Section 14-A of the Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the SC and ST Act') challenging the order of rejection of bail dated 29.07.2020 passed by the Trial Court in Crime No.414 of 2019 registered with Nagbhid Police Station, District Chandrapur for the offence punishable under Sections 323, 341, 354, 354-A, 354-D, 452, 504, 506 of the Indian Penal Code, Section 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Sections 3(1)(w)(i) and 3(2)(va) of the SC and ST Act.

3. At the instance of First Information Report lodged by the victim-girl aged 13 years 7 months, the crime was registered. The victim stated that on 22.11.2019 while she was proceeding towards her house from school, that time, accused accosted her, expressed his love, and on refusal slapped and caused her to fell down. Then after one month, the accused entered in her house, pulled and hugged and therefore, the report. The vicim-girl belongs to the Scheduled Tribes and therefore, the provisions of the SC and ST Act were also invoked. The allegation is of sexually assault and harassment.

4. Learned A.P.P. has resisted bail by filing affidavit-in-reply. It is contended that the applicant/accused has committed serious crime and there is likelihood of pressurizing the victim, if, the accused is release on bail. Moreover, learned Counsel appearing for respondent no.2 also resisted bail by expressing fear of tampering.

5. Upon instructions, it was informed that though charge is framed, yet the trial has not commenced. Certainly, the trial will take considerable time for its disposal as yet witnesses are to be examined . Pertinent to note that the alleged offences are punishable upto imprisonment which may extent for 7 years. The applicant/accused was arrested on 23.11.2019 and from last two years he is in jail. Considering the nature of accusation and his pre-trial detention, he can be released on bail, however, stringent conditions can be imposed for taking care of anticipated tampering. In view of that following order is passed :

- (a) The Criminal Appeal stands allowed.
- (b) The impugned judgment and order dated 29.07.2020 passed in Misc. Criminal Application No. 632 of 2020 by the Additional Sessions Judge, Chandrapur is hereby quashed and set aside.
- (c) The appellant/accused Swapnil s/o Shamdeo Pal is released on

bail on his furnishing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

- (d) The appellant/accused shall not enter within the territorial jurisdiction of Nagbhid Taluka till the conclusion of trial.
- (e) The appellant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (f) Breach of either of condition would give rise to the prosecution to move this Court for cancellation.

6. Fees be paid to the appointed Counsel, as per Rules.

JUDGE

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