

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

CRIMINAL APPEAL NO.831 OF 2019

APPELLANT : Prajwal Sadashiv Bhandekar,
(IN JAIL) A/A 20 years, Occu. Private Service,
R/o Near Devtale College, Chamorshi,
Ta. Chamorshi, Dist. Gadchiroli.

V E R S U S

RESPONDENTS : 1. State of Maharashtra,
Through Police Station Officer,
Police Station, Chamorshi,
Dist. Gadchiroli.

2. The Victim
Through her mother/complainant
Smt. Jirabai Vasant Kulmethe,
Aged about : 57 years, Occu. Labour,
R/o Hanuman Ward, Tahsil Office
Road, Chamorshi, Ta. Chamorshi,
District Gadchiroli.

Shri V. N. Morande, Advocate for appellant.
Ms. Mayuri Deshmukh, Additional Public Prosecutor for respondent No.1-
State.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.
DATED : 06/01/2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.

2. **Admit.**

3. This is an appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 challenging the order dated 15/10/2019 passed by the Additional Sessions Judge, Gadchiroli in Criminal Bail Application No.453/2019 in relation to Crime No.129/2019 for the offences punishable under Sections 376(2)(1), 354-A, 354-B, 452 of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The First Information Report came to be registered with respondent No.1 - Police Station with the accusations that daughter of the informant is mentally challenged and is not able to speak properly. It is alleged that on 01/06/2019, the appellant sexually assaulted her. The appellant was arrested on 02/06/2019. The appellant, therefore, filed Criminal Bail Application No.453/2019 before the Additional Sessions Judge, Gadchiroli under Section 439 of the Code of Criminal Procedure, which is rejected by the impugned order dated 15/10/2019. The appellant has, therefore filed present appeal before this Court. This Court on 18/12/2019 issued notice to the respondents and

directed that the appellant be released on provisional bail subject to executing P. R. bond for Rs.20,000/- along with one solvent surety of like amount.

5. The record shows that the respondent No.2 is served but the respondent No.2 has not appeared in spite of service of notice of this Court.

6. We have considered the contents of First Information Report and the impugned order. From the accusations in the First Information Report, it appears that the victim is about 32 years old but is mentally challenged. The Disability Certificate issued by the Medical Board / Civil Surgeon, General Hospital, Gadchiroli on 29/11/2012 shows that the disability of victim is to the extent of 45%. The investigation is complete and charge-sheet is already filed. The respondent No.1 - Investigating Agency has not able to show that further custody of the appellant is required. The appellant is aged about 20 years and is working as a Delivery Boy with H.P Gas, Chamorshi. In para 14 of Appeal Memo, it is stated that there are no criminal antecedents to the discredit of the appellant. The prosecution has not shown that the appellant

has misused the liberty granted to him by the order dated 18/12/2019.

7. We, therefore, pass the following order :-

ORDER

I] The impugned order dated 15/10/2019 passed by the Additional Sessions Judge, Gadchiroli in Criminal Bail Application No.453 of 2019 is hereby quashed and set aside.

II] The order of this Court dated 18/12/2019 granting protection to the appellant is confirmed subject to modified condition that the appellant shall deposit an amount of Rs.50,000/- with the Additional Sessions Judge, Gadchiroli.

III] The deposit of cash security of Rs.50,000/- shall be in addition to the condition already imposed by the order of this Court dated 18/12/2019 in para 6 of the order.

IV] The appellant shall deposit the cash security amount of Rs.50,000/- till 30/01/2021. In case of default in deposit of cash security of Rs.50,000/- till 30/01/2021, the appellant shall be taken into custody forthwith.

V] The learned Sessions Judge shall pass appropriate order as regards the amount of Rs.50,000/- deposited by the appellant at the time of conclusion of the trial.

The criminal appeal is allowed in the above terms.

JUDGE

JUDGE

Choulwar