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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 224 OF 2022**

Mahesh Shrihari Latpate	.. Appellant
Versus	
State of Maharashtra and Anr.	.. Respondents

Mr. Nitesh Mohite a/w. Mr. Ashish Vernekar i/by Mr. Sachin T. Zalte
for Appellant.

Mr. Ajay Patil, APP for State.

Ms. Devyani Kulkarni, Appointed Advocate for Respondent No.2.

**CORAM : A. S. GADKARI &
MILIND N. JADHAV, JJ.**

DATE : 23rd September, 2022.

P.C.:

. By the present Appeal, Appellant (original accused No.1) has impugned the Order dated 03.08.2021 passed by the learned Special Judge and Additional Sessions Judge, Pune below Exhibit-8 in Special Case No. 755 of 2020, thereby rejecting the Application for bail under Section 439 of the Criminal Procedure Code.

2. Heard Mr.Mohite, learned Advocate for the Appellant, Mr.Patil, learned APP for State and Ms. Kulkarni, learned Advocate appointed by the Legal Aid Committee to represent Respondent No.2. Perused chargesheet.

3. As the victim in the present case is a minor, in consonance with provisions of Section 228-A of the Indian Penal Code and Section

33(7) of the Protection of Children from Sexual Offences Act (“POCSO Act”), the detailed narration of the facts disclosing her identity and/or identity of her near relatives is hereby avoided.

4. Appellant is accused No.1 in Criminal Case No. 326 of 2020 dated 12.10.2020 registered with Ranjangaon MIDC Police Station, Pune (Rural). After investigation, the said case is culminated into Special Case No. 755 of 2020.

5. It is the prosecution’s case that, the Appellant was residing in Room No. 401 in the same building where the victim (minor) who was aged about 14 years and 6 months at the relevant time, was residing in room No. 306 on the 3rd floor. That, the Appellant pestered victim saying that, he is in love with her; initially did blackmailing by saying that, he may commit suicide, if she refuses to marry with him and subsequently in connivance with other two accused persons removed the victim from the lawful custody of her parents on 12.10.2020. That, the Appellant thereafter took victim to Pune and subsequently to Kolhapur and Ladewadgaon, Taluka Kej, District Beed and committed forcible sexual intercourse with her.

6. Appellant came to be arrested on 19.10.2020 at Ladewadgaon, Taluka Kej, District Beed. Perusal of statement of victim clearly indicates that, Appellant induced her to leave her parents and with the help and in connivance with other two accused

persons took her to Pune, Kolhapur and Ladewadgaon, Taluka Kej, District Beed and committed forceful sexual intercourse with her. It appears that, Appellant also threatened the prosecutrix that, if she refuses to permit him to have sexual relations with her, he may defame her in the society.

7. Record further indicates that, the statement of prosecutrix under Section 164 of Cr.PC has been recorded by the Judicial Magistrate First Class, Taluka Shirur, District Pune on 20.09.2020. Perusal of the said statement clearly indicates that, the victim has not deviated from her original statement recorded under Section 161 of Cr.PC.

8. Ms. Kulkarni, learned Advocate appointed to represent Respondent No.2 pointed out that, as per the medical documents, the U.P. Test of victim has shown positive results. That, the Medical Officer attached to Rural Hospital at Shikrapur, Taluka Shirur, District Pune has opined that, on examination of prosecutrix sexual assault might have occurred.

9. After taking into consideration the material available on record, this Court is of the considered view that, Appellant does not deserve to be released on bail.

We find that, there is no error committed by the learned trial Court while passing the impugned Orders dated 03.8.2021 on merits.

10. As the Appellant in jail since 19.10.2020, and taking into

consideration the age of the Appellant on the date of commission of offence, the learned Special Judge, Pune seized of Special Case No. 755 of 2020 is requested to expedite the hearing of the said case.

11. Appeal is accordingly dismissed.

[MILIND N. JADHAV, J.]

[A. S. GADKARI, J.]

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