

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 861 OF 2021

Kartik @ Ratikant Nagnath Malage ..Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Lokesh Zade i/b. Mr. Adwait Bhande for Appellant.
Ms. Supriya Kak, Advocate (appointed) for Respondent No.2.
Mr. Y. M. Nakhwa, APP for State/Respondent.

**CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.
DATE : 28th APRIL 2022.**

PC :

1. This is a Criminal Appeal filed challenging the order of rejection of bail application passed by the Special Court under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC & ST Act').

2. Both, learned counsel for the Appellant, as well as, for the Respondent No.2 submitted that, when the offences are registered under SC & ST Act, as well as, under The Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') the proper court for conducting the trial and deciding the application would be the Learned Judge under POCSO Act. Both of

them relied on the Judgments passed by different co-ordinate benches of this court. In this connection, following Judgments are important:

(i) Order dated 24/11/2021 passed in Criminal Appeal No. 362 of 2021 passed by Division bench of this court at Aurangabad, wherein, similar view was taken.

(ii) Learned single Judge of this court in Criminal Bail Application No.8171 of 2020 vide order dated 03/07/2020 has also taken a similar view after consideration of various provisions and Judgments.

3. Learned counsel for the Appellant submitted that the appellant would make proper application before the Principal District and Sessions Judge to transfer the trial to the court taking POCSO matters. Therefore, the Appellant herein is granted liberty to approach the court of learned Special Judge under POCSO Act by reviving the prayer for bail in connection of this offence. Liberty is granted in these terms. If a fresh application for bail is preferred, it shall be decided in accordance with law.

4. The Appeal, therefore, is disposed of.

5. However, it is made clear that, we have not expressed our opinion on the merits of the matter.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)