

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

**CRIMINAL APPEAL NO.530/2022**

Mayur Shankar Ukey,  
Aged about 21 years, Occ. Private Job,  
r/o Dhanla, Tq. Mouda, Dist. Nagpur. ....**APPELLANT**

**...V E R S U S...**

1. State of Maharashtra through Police  
Station Officer, Police Station Mouda,  
Tq. Mouda, Dist. Nagpur.
2. XYZ,  
In crime No. 720/2021 dated  
14.12.2021 registered by PSO  
P.S. Mouda, Tq. Mouda, Dist. Nagpur. ...**RESPONDENTS**

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Mrs. M. M. Ghatode, Advocate for appellant.  
Mr. S. S. Doifode, A.P.P. for respondent no.1.  
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**CORAM:- ROHIT B. DEO & ANIL L. PANSARE, JJ.**  
**DATED :- 06.10.2022**

**J U D G M E N T** (Per: Anil L. Pansare, J.)

Heard. Admit. Heard finally by consent of learned  
counsel for the parties.

2. By present appeal under Section 14-A of the Scheduled  
Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989,  
the appellant is challenging the order dated 01.04.2022 passed by  
learned Special Judge, Nagpur in Special Case No. 65/2022.

3. The appellant had approached the learned trial Court  
under Section 439 of the Code of Criminal Procedure, 1973

seeking release on regular bail in Crime No.720/2021, registered on 14.12.2021 for the offence punishable under Sections 376(2)(N), 114, 506 of the Indian Penal Code, Sections 4 and 6 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Protection of Children From Sexual Offences Act, 2012.

4. The charge-sheet would disclose that the prosecutrix was aged about 17 years 6 months at the time of incident which occurred on or about 10.09.2021. The case of the prosecution is that on 10.09.2021, the appellant made a phone call to the victim and proposed her to have a ride to which she initially denied but later on agreed. The appellant then informed her that his friend Vijay, co-accused would also accompany them. Accordingly, the appellant, co-accused Vijay and the victim went for a ride on motorcycle bearing No. MH-36/N-6620. They stopped near a temple. At that time, she heard that the appellant was instigating the co-accused to have physical relation with the victim. Thereafter, co-accused Vijay forcibly took the victim to the nearby shrubs and established physical relations twice. Thereafter they

came back to town. The victim did not disclose the incident to anyone out of fear. She however missed her menstrual cycle for three months and therefore narrated the incident to her mother. Later on it was disclosed that she is pregnant. Thereafter on 10.12.2021, the incident was reported to the Police Station, Bhandara.

5. We need not go into the details as to how the incident has occurred. Suffice it to say that the victim was 17 years 6 months old and thus had sexual maturity. She went for a ride with her friends. One of them i.e. co-accused committed sexual assault on her, which was allegedly at the instance of the appellant. They came back but she did not report the incident to anyone. It is only when she came to know of the pregnancy, she has reported the matter to her mother. In the aforesaid set of facts, the role assigned to the appellant of instigating the co-accused to commit the crime appears to us, though prima facie, an exaggerated version. On this limited role, the trial Court has rejected the application without considering the defence that the appellant had been to attend the nature's call and came back

after some time and brought co-accused and the victim to the town.

6. We find that in these circumstances, the rejection of the application for releasing the applicant on bail to be harsh approach. The appellant is 21 years old. The incident is indicative of the fact that all the three were known to each others. The appellant has not actively participated in the crime. His presence with the co-accused and the victim cannot be the sole ground to reject his application, particularly when there are no criminal antecedents put forth against him by the prosecution. It will take some time to commence and conclude the trial. In the circumstances, considering the role assigned to the appellant, we are of the considered view that the appellant has made out a case in his favour. Hence, we pass the following order.

### **ORDER**

- (i) The appeal is allowed.
- (ii) Order dated 01.04.2022 passed by learned Special Judge, {Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act}, Nagpur below Exh.-4 in Special Case No.65/2022, is quashed and set aside.

(iii) Appellant-Mayur Shankar Ukey, be released on bail in connection with Crime No.720/2021, registered with Police Station Mouda, Tq. Mouda, Dist. Nagpur for an offence punishable under Sections 376(2)(N), 114, 506 of the Indian Penal Code, Sections 4 and 6 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act and Sections 3(1)(w)(i)(ii), 3(2)(v) and 3(2)(v-a) of the Protection of Children From Sexual Offences Act, 2012, on he executing P.R. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

(iv) The appellant shall not tamper with the prosecution evidence or shall not try to pressurize the witnesses.

(v) The appellant shall attend the trial Court on each and every date, unless specifically exempted by the trial Court.

The appeal is disposed of.

**(Anil L. Pansare, J.)**

**(Rohit B. Deo, J.)**

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