

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

CRIMINAL APPEAL NO.1224 OF 2019

Shankar Ananta Badade

....Appellant

Versus

The State of Maharashtra
and another

.... Respondents

Mr. Satyavrat Joshi, Advocate a/w. Ashish Vernekar, i/b.
Nitesh J. Mohite, for the Appellant.

Mr. S.R. Agarkar, APP for the Respondent No.1-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 02nd JANUARY, 2023

P.C. :

1. The appellant has challenged the order dated 11.7.2019 passed below Exhibit-8 in Special Sessions Case No.490/2018 passed by the Additional Sessions Judge, Pune. In effect, the appellant is seeking his release on bail in connection with C.R. No.519/2018 registered with Saswad Police Station, Pune under Sections 376(2)(i),(n), 506 and 376-AB of the Indian Penal Code and under Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act') and under Sections 3(1)

(xi), 3(1)(xii), 3(2)(v), 3(1)(w)(i), (ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'Atrocities Act').

2. The appellant was arrested on 23.10.2018 and since then he is in custody. The investigation is over and the charge-sheet is filed.

3. Heard Shri Satyavrat Joshi, the learned counsel for the appellant and Shri S.R. Agarkar, APP for the Respondent No.1-State.

4. The FIR is lodged by the grand-mother of the victim on 23.10.2018. The victim was eight years of age at the time of incident. The FIR mentions that the victim was suffering from pain in her private parts and in her abdomen. On enquiry with her she told the first informant that the appellant had committed rape on her. On this basis, the FIR is lodged.

5. The learned counsel for the appellant submitted that as per the prosecution case the victim was playing with

her friends and none of the friends is examined by the investigating agency. He further submitted that the medical examination did not show any injury and, therefore, the case is false.

6. The learned APP on the other hand relied on the statements of the victim recorded under Sections 161 and 164 of Cr.PC. He submitted that the medical opinion clearly mentions that the possibility of sexual assault could not be ruled out.

7. I have considered these submissions. The victim in her both the statements has described the incident and has clearly blamed the appellant for the offences. She was eight year old. In her statement recorded under Section 164 of Cr.PC., she has mentioned that the appellant has repeated this incident on three occasions. Her grievance is corroborated by her grand-mother's statement in the FIR.

8. The medical examination refers to the medical opinion that the possibility of sexual assault could not be

ruled out. Thus, at this stage there is strong material against the appellant. Therefore, the appellant cannot be released on bail. However, the appellant is in custody since 23.10.2018. The trial has not yet commenced. Therefore, the trial Court is requested to take up the trial for disposal at the earliest and to conduct it expeditiously. The trial court is further requested to conclude the trial as far as possible within a period of six months from today.

9. With these observations, the appeal is dismissed and is disposed off.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2023.01.06
11:05:50 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)