

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

CRIMINAL APPEAL NO. 110 OF 2023

Jarina @ Zareena Khan W/o Siraj Khan
Aged about 45 years, Occu : Labour,
R/o Kartik Mela Ground Zopadpatti,
Ujjain, Madhya Pradesh (Within Police
Station Mahakal, Ujjain) } .. Appellant

Versus

1. State of Maharashtra
Through P.S.O. Sakkardhara, Nagpur
Dist. Nagpur
 2. XYZ victim Crime No.94/2020
dtd.20.02.2020 registered with P.S.O.
Sakkardhara, Nagpur, District - Nagpur
- } .. Respondents

Shri. M. V. Rai, Advocate for appellant.

Shri. V. A. Thakare, APP for respondent No.1.

Smt. Kirti Deshpande, Advocate (appointed) for respondent No.2.

CORAM : VINAY JOSHI AND
BHARAT P. DESHPANDE JJ.

DATED : 20/03/2023

ORAL JUDGMENT (Per : Vinay Joshi J.)

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

Admit.

(2) By this appeal the appellant is challenging the order dated 05/05/2022, passed by the Special Judge, Nagpur in Special Case No.639/2021, whereby rejected the bail in Crime No.94/2021 registered with Police Station Sakkardara, District–Nagpur for the offences punishable under Sections 363, 376(2)(j), 376(2)(n), of Indian Penal Code, 1860, Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(r)(s)(w)(i) of the The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(3) The appellant is a lady, who is allegedly abeted the main accused for committing rape on minor victim. The main accused is son of appellant who is behind bars. Initially mother of victim has lodged report alleging that her daughter has been kidnapped by unknown person. During investigation it was revealed that co-accused Shahrukh has kidnapped minor victim and the applicant assisted him. The police have recorded the statement of minor victim aged 18 years. The victim stated that she was doing work of garbage collection at Nagpur. She got acquainted with co-accused Shahrukh and they developed love relationship. On 20/02/2020, Shahrukh express his

desire to the victim that they would run away and accordingly both met at railway station, where all family members of Shahrukh were present. Thereafter, all of them went to Ujjain, Madhya Pradesh by train. They stayed in a hut for near about one and half year. During the said period Shahrukh had sexual relations with minor, who has delivered a baby. Later on minor was sent back and thus, after return her statement was recorded.

(4) Though the victim has stated that the family members of Shahrukh were present at the railway station, however, the names of family members who were actually present have not been stated. The entire allegations are against co-accused Shahrukh about sexual assault on minor. The role assigned to the appellant is that she being his mother had assisted him in kidnapping the minor. Besides that there are no allegations against her. Already investigation is complete and charge-sheet has been filed. The appellant is a lady. No fruitful purpose would be served in keeping her behind bars. The trial will take its own time for disposal. In view of that, we deem it fit to release her on bail by imposing suitable conditions.

- A) The Appeal is allowed.
- B) The impugned order dated 05/05/2022, passed on Exh.5 by Special Judge in Special Case No.639/2021, is hereby quashed and set aside.
- C) The appellant **Jarina @ Zareena Khan W/o Siraj Khan** be released on bail on her furnishing PR.Bond of Rs.25000/- with one or two sureties in the like amount.
- D) The appellant shall furnish her cell number and permanent residential address to the Investigating Officer.
- E) The appellant shall not tamper the prosecution evidence in any manner.
- F) Pending application, if any, stands disposed of.
- G) Fees of appointed counsel be paid as per rules.

[BHARAT P. DESHPANDE J.]

[VINAY JOSHI, J.]