



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

CRIMINAL APPEAL NO.117 OF 2024

Shashikant s/o Arun Ghagi
Age 26 years, Occupation – Govt. Employee,
R/o. Charurkhati, Chandrapur - 442907

...APPELLANTS

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Warora,
District Chandrapur
2. Victim XYZ
through Complainant
in Crime No.920/2023
Police Station Warora,
District Chandrapur

...RESPONDENTS

Mr. R.S. Bhalerao, Advocate for the appellant.
Ms R.V. Sharma, APP for the State.
Ms R.M. Mishra, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : APRIL 3, 2024.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. This is an appeal under Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocities Act' for short), the appellant has challenged the order dated 23/01/2024 whereby the Special Judge and Additional Sessions Judge, Warora, District Chandrapur rejected the bail application of the appellant bearing Criminal Bail Application No.02/2024.

3. The crime is registered against the present appellant in connection with Crime No.920 of 2023 registered at police station Warora, District Chandrapur for the offence punishable under Sections 376, 376AB, 377 and 506 of the Indian Penal Code and Sections 4, 6 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. The accusation against the present appellant is on the basis of report lodged by the father of the victim on an allegation that the victim is aged about 11 years. He and his wife both are doing the labour work and present appellant is residing in his neighbourhood along with his family members. On 18/11/2023 at about 10.00 a.m. his daughter disclosed that the present appellant has called her in his house for alighting the lamps and he took her on terrace. It is alleged that he has shown some obscene videos and photographs to her and subjected her for sexual assault. On the basis of said report, police

have registered the crime against the present appellant. After registration of the crime, the appellant approached to the Special Court for grant of bail. The Special Court considering the material collected during the investigation held that there is a *prima facie* material to connect the present appellant with the alleged offence. The medical report also substantiate the said contention and rejected the application.

4. Being aggrieved and dissatisfied with the same, present appeal is preferred by the appellant on the ground that the entire story narrated by the victim and disclosure made by him is improbable and unacceptable one. He submitted that the present appellant is a landlord of the informant and only to implicate him in the false crime this false FIR is lodged with the help of the victim. He submitted that the entire story narrated by the victim appears to be improbable. Now, investigation is already completed and charge-sheet is filed, further incarceration of the appellant is not required. In view of that, he be released on bail.

5. Learned Additional Public Prosecutor and learned Counsel for respondent No.2 strongly opposed the appeal on the ground that 11 years small girl is subjected for the sexual assault by the present appellant by calling her on the terrace. Though investigation is completed considering the appellant is a landlord of the informant he

would attempt to tamper the prosecution evidence, and therefore, the appeal deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers. The FIR is lodged on the basis of disclosure made by the victim to her father. The statement of the victim is also recorded during investigation. There is no dispute as to the age of the victim girl who is 11 years old. Her school leaving certificate also shows her birth date from which it appears that at the time of incident, she was 11 years of age. As far as the statement of the victim is concerned no reason came forward to show that she is having any reason to implicate the present appellant in a false FIR. Thus, *prima facie* case is made out against the present appellant. The learned Special Court has considered the entire investigation papers and observed that the medical report also supports the contention and the findings are consistent regarding the sexual assault on her. FSL report is yet to be received. Considering the gravity of the offence, the application is rejected. I do not find any reason to interfere with the said order as learned trial Court has considered the entire material and thereafter rejecting the application.

7. The *prima facie* case is made out against the present appellant and the apprehension raised by the State cannot be ruled out considering the applicant is in an authoritative position and there is

every chance of tampering of the witnesses. In view of that, appeal is devoid of merits and liable to be dismissed.

8. Hence, the appeal is dismissed accordingly.

9. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*