



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

CRIMINAL APPEAL NO.294/2024

Vaibhav Narayan Sahastrabuddhe
Vs.

State of Maharashtra through Police Station Officer Police Station, Sehgaon Rural,
Tq. Khamgaon, Dist. Buldhana and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sirpurkar, Advocate for appellant
Shri A.G. Mate, APP for respondent No.1/State
Ms Jayanti A. Deshpande, Advocate (appointed) for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/07/2024

Heard.

2. **Admit.**

3. By preferring this appeal, the appellant has challenged the order passed by the Special Judge, Khamgaon, District Buldhana in Criminal Bail Application (ABA) No.170/2024 by which the application for anticipatory bail of the present appellant is rejected. The appellant is apprehending arrest at the hands of police in connection with Crime No.122/2024 registered at police station Shegaon Rural, District Buldhana for the offence punishable under Sections 354, 354-A of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act of 1989').

4. After registration of the crime, the present appellant approached to the Special Court for grant of bail. However, Special Court has rejected the bail application as there is bar under Section 18-A of the said Act. The accusation against the present appellant is on the basis of report lodged by the victim girl aged about 16 years who alleged that she belongs to the Scheduled Caste and studying at Shegaon. On the day of incident i.e. on 05/04/2024 at about 9:00 a.m., she was proceeding to attend the school, at that time present appellant restrained her, hold her hand and insisted her to sit on his vehicle, and therefore, she returned home and narrated the incident to her parents. On the basis of which the crime is registered.

5. Learned Counsel for the appellant submitted that there was a love affair between the victim and the present appellant and they were chitchatting with each other through the messages, however her brother has seen both the them together, and therefore, due to the pressure of brother she has lodged this report. He submitted that as far as the bar under Section 18-A of the Act of 1989 is concerned, which is not attracted as no *prima facie* case is made out against the present appellant.

6. Learned APP and appointed Counsel strongly opposed the said application on the ground that there is specific bar under Section 18-A of the Act of 1989 and the application is not maintainable and, therefore, the prayer for grant of anticipatory bail deserves to be

rejected.

7. After hearing the learned Counsel for both the parties, perused the recitals of the FIR and investigation papers. On perusal of the investigation papers, it reveals that both are from the same village. There was previous acquaintance between them. Admittedly, the appellant was knowing that she belongs to SC and ST. As far as the allegation is concerned, which is only to the extent of holding her hand. As far as the allegation of the present appellant to hold her hand is concerned, there is no material that with an intent to sexual harassment of the victim to hold her hand. It appears that due to the previous acquaintance, the present appellant has hold her hand. Thus, considering the allegation and various statements recorded, at this stage, the appellant has not made out a case for grant of anticipatory bail. As far as bar under Section 18-A is concerned, it is well settled that being *prima facie* case is not made out then the anticipatory bail is maintainable and bar under Section 18-A is not attracted. The appellant is released on ad-interim anticipatory bail and there is no complaint that he has misused his liberty. Considering the same, his custodial interrogation is not required. In view of that the appeal deserves to be allowed. Accordingly, I proceed to pass the order.

8. The appeal is allowed. The order passed by the Special Judge, Khamgaon, District Buldhana in Criminal Bail Application (ABA) No.170/2024 is

quashed and set aside.

9. The interim protection granted to the appellant by order dated 21/05/2024 is confirmed on conditions that he shall attend concerned Police Station as and when required for the investigation purpose and he shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

10. The appeal is disposed of.

11. The fees of the appointed Counsel be quantified as per Rules.

JUDGE

R.S. Sahare