



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

CRIMINAL APPEAL NO.301 OF 2024

Savitri w/o Uttamsingh Prajapati
Aged about 48 years, Occupation – Labour,
R/o Gondelkela, Tah. Dabra,
District Gwalior, Madhya Pradesh

...APPELLANT

VERSUS

1. State of Maharashtra,
through P.S. Asegaon,
Amravati Rural, Amravati
2. Sangita w/o Kshirsagar Bhowate
Age 41 years, Occupation – Labour,
R/o Kolha, Asegaon,
Amravati Rural, Amravati

...RESPONDENTS

Mr. A.M. Jaltare, Advocate a/w Mr. N.D. Dawda, Advocate for the appellant.
Mr. N.B. Jawade, APP for the State.
Mr. Vinay Sharma, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : SEPTEMBER 4, 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 28/02/2024 passed by the Ad-hoc Additional Sessions Judge-2, Achalpur rejecting the bail application of the present appellant bearing Special Case No.14/2024.

3. The appellant is prosecuted of the offence punishable under Sections 363, 366, 370, 376(2)(n), 504 read with Section 34 of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(v-a) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The crime is registered on the basis of report lodged by the mother of the victim on an allegation that her daughter aged about 27 years was initially married. After marriage she resides with her husband for three to four months but she was driven out of the house by her husband, and therefore, she come to reside along with her. It is further alleged that the co-accused Gulab used to visit their house. On 26/10/2023 when her daughter was sleeping in the house, the co-accused Gulab came to her house at about 6.00 AM and enquired with the victim. He asked her to wake her up and thereafter they were communicating with each other. After that she was taken by the co-accused and she returned after 8-10 days. Though she enquired with her but victim has not disclosed anything. Subsequently, she came to

know that she was subjected for the sexual assault, and therefore, report is lodged. After registration of the crime against the present appellant, present appellant approached to the Special Court for grant of bail but the Special Court has rejected the bail application by observing that there is a *prima facie* material against the present appellant and offence is of a serious nature and rejected the application.

5. Being aggrieved and dissatisfied with the same, present appeal is preferred on the ground that as far as the role of the present appellant is concerned which is only to the extent of abetment and no serious offence is attributable against the present appellant. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present appellant is not required, and therefore, she be released on bail.

6. Learned Counsel for the appellant submitted that as far as the role of the present appellant is concerned it is not substantiated by any material. The FIR is lodged after 15 days. During these 15 days, there was no missing report as to the abscondence or the abduction of the victim. He submitted that considering now investigation is already completed and charge-sheet is filed and no specific role is attributed to the present appellant. Moreover, there is no material to show that she has received any consideration amount by handing over the custody of

the victim to the third person. Thus, considering all these statements, no *prima facie* case is made out against the present appellant. Hence, the appeal deserves to be allowed.

7. Learned APP and learned Counsel for respondent No.2 strongly opposed the appeal and submitted that as far as the role of the present appellant is concerned which is more serious as she has not only induced the victim but victim was taken by the present appellant at her house and attempt was made to perform her marriage against her wish. It further reveals from the statement of the victim that present appellant disclosed to her that by paying the consideration amount she was purchased, and therefore, she has to act according to her as well as her husband. On the basis of said statement, the appellant was arraigned as an accused in the present crime. Learned APP and learned Counsel for respondent No.2 invited my attention towards the statement of the victim from which it reveals that she was forced to consume the liquor and when she was under the influence of liquor she was taken by the co-accused at Betul and from Betul to Gwalior. At Gwalior station present appellant and her husband and one boy came there. They communicated with each other in other language. Thereafter present appellant disclosed to her that she was brought to perform her marriage. On her denial, some clothes were provided to her and she was forced to perform the marriage with one boy but she pushed the said boy and sat in the

auto rickshaw. It further reveals that the co-accused Gulab has taken her at Gadwal and at Gadwal her custody was handed over to one woman who has disclosed to her that she was purchased. From the statement of the victim it reveals that for the purpose of trafficking she was abducted and the present appellant has also played a vital role as far as the trafficking is concerned. Thus, considering the *prima facie* case against the present appellant, they submitted that the application is rightly rejected by the Special Court.

8. I have heard learned Counsel for both the parties. Perused the statement of the victim from which it reveals that the co-accused has taken her by administering her liquor and under the influence of liquor she was taken initially at Betul thereafter at Gwalior and from Gwalior to Gadwal. Her custody was initially given to the present appellant and her husband. They attempted to perform her marriage with one boy but she rescued herself and thereafter she was taken at Tekun Gadwal wherein her custody was handed over to the third woman who disclosed to her that she was purchased but somehow she has obtained the money rescued herself and returned to the home. Thus, considering the statement of the victim, at this stage there is nothing on record to disbelieve the said statement. Considering the nature of the offence and the allegation that she was subjected for sexual assault by the co-accused

Gulab. *Prima facie* case is also made out against the present appellant. In view of that, the appeal is devoid of merits and deserves to be dismissed.

9. Hence, the appeal is dismissed accordingly.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*