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

CRIMINAL APPEAL NO.498 OF 2024

Pawan @ Suraj s/o Shukumar Parai,
Age: 19 Years, Occupation : Student,
R/o Bangalil Camp, Chandrapur,
District, Chandrapur.

..... APPELLANTS

// VERSUS //

1. The State of Maharashtra,
Through Police Station Officer,
Police Station, Ramnagar,
Chandrapur,
Tahsil and District : Chandrapur.

2. XYZ (Victim)
through, Police Station Officer,
Police Station, Ramnagar,
Chandrapur.

.... RESPONDENTS

Mr. R. M. Tahaliyani, Counsel along with Ms. Ragini K. Swami,
Counsel for the appellant.
Ms. Kavita Bhongde, APP for respondent No.1/State.
Ms. Anuprita S. Mishrikotkar, appointed Counsel for
respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22.10.2024

ORAL JUDGMENT :

1. **Admit.**

2. Heard finally with the consent of learned Counsel
appearing for the parties.

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3. By this appeal, the appellant has challenged the order passed by the learned Special Judge, Chandrapur in Mic. Criminal Bail application No.506/2024 by which the application of the present appellant for grant bail is rejected.

4. The crime is registered on the basis of report lodged by the mother of the victim girl on an allegation that her daughter aged about 17 years and 9 months was communicating with one boy through the telephonic call. Though she restrained her from communicating, she was communicating through Instagram also. On 31.07.2024, police informed her that her daughter is admitted in the hospital in injured condition, and therefore, she immediately rushed to the hospital and made an inquiry with her daughter who disclosed that the present applicant with whom she was having a love affair and out of a love affair, he promised her for marriage, but subsequently, declined to marry with her and on insistence he assaulted her. On the basis of the said report, police have registered the crime against the present appellant.

5. Learned Counsel for the appellant submitted as far as the allegation of the sexual assault, which appears to be due to the love affair between the victim and the present appellant, though victim is below 18 years of age, but she was on the verge of attaining the age of majority. A mere breach of promise of marriage is not sufficient to attract the provisions of the Atrocities

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Act, but the offence under Section 376 of the Indian Penal Code or under Section 4 of the Protection of Children from Sexual Offences Act. Now the investigation is practically completed, his further incarceration is not required. In view of that he be released on bail.

6. Learned APP and learned Counsel for the respondent No.2 strongly opposed the said application that the present appellant subjected the minor victim girl for the sexual assault on the promise of marriage and thereafter, on insistence by her for marriage, she was assaulted. Considering the nature of the offence, the learned trial Court has rightly rejected the application and no interference is called for.

7. After hearing the learned Counsel for the appellant and learned APP for the State and learned Counsel for the respondent No.2, perused the entire investigation papers from which it reveals that the present appellant and the victim got acquaintance through Instagram. They were communicating with each other and out of a love affair, a physical relationship was developed between them. Subsequently, the marriage was not performed for some reasons. The victim girl was insisting the present appellant and due to which there was some dispute between them, and thereafter this report came to be lodged. Thus, considering the allegation against the present appellant, it appears that out of a love affair physical relationship was developed. As far as the injuries are concerned,

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during the scuffle these injuries were caused to the victim. Considering the statement of the victim, which appears that two young people came together and love relationship was developed between them and out of that, there was a sexual relationship between them. Now the investigation is practically completed, further incarceration of the present appellant is not required. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order passed by the learned Special Judge, Chandrapur in Misc. Criminal Bail Application No.506/2024 is hereby quashed and set aside.
- (iii) The appellant **Pawan @ Suraj s/o Shukumar Parai** shall be released on bail in connection with Crime No.767/2024 registered with Police Station Ramnagar, Chandrapur, District Chandrapur for the offence punishable under Sections 64(2)(m), 115(1), 351(2) of the Bharatiya Nyaya Sanhita, 2023, under Section 4 of the Protection of Children from Sexual Offences Act, and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, on executing PR Bond of Rs.25,000/- with one solvent surety in the like amount.
- (iv) The appellant shall not induce threat or promise any witnesses either physically or by electronic media.
- (v) The appellant shall not enter into the vicinity of village Borda, District Chandrapur, till culmination of the trial.
- (vi) The appellant shall attend the proceedings before the learned Special Court without seeking any exemption unless there are exceptional circumstances.

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

9. The appeal is disposed of

(URMILA JOSHI-PHALKE, J.)

Sarkate.