



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

CRIMINAL APPEAL NO. 563 OF 2024

APPELLANT:

Arpita Ashok Ingle,
Aged about 20 years, Occu: Education,
R/o Behind Dr. Babasaheb Ambedkar
Statue, Dalfail, Khamgaon District
Buldhana.

...VERSUS...

RESPONDENTS

- 1] State of Maharashtra,
through Police Station Officer,
Police Station Khamgaon City, Buldhana.
- 2] XYZ.
Crime No. 410/2024,
PSO PS Khamgaon City,
District Buldhana.

Mr. M.N.Ali, counsel for appellant.

Ms. Shamshi Haider, APP for respondent No.1.

Mr. Utkarsha Hingmine, counsel h/f Mr. S.V. Sirpurkar, counsel for
respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 22/11/2024

ORAL JUDGMENT :

1. **Admit.** Heard finally with consent of learned counsel

appearing for the parties.

2. By this appeal, the appellant has preferred the appeal under Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, challenging the order passed by learned Special Judge, Khamgaon, District Buldhana, rejecting the application for grant of bail dated 19/09/2024.

3. The crime no. 410/2024 registered at Khamgaon City Police Station, District Buldhana for the offences punishable under Sections 64(1), 64(2)(i), 64(2)(m), 65(1), 49, 351(3), 3(5) of the Bharitya Nyaya Sanhita, 2023 read with Section 4(1), 5(L), 6, 17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012; and under Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(v), 3 (1) (r), 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, on an allegation that the co-accused, with whom the victim was having acquaintance, subjected her for forceful sexual assault on the promise of marriage, and the present appellant has abetted him to commit such offence by providing the rented room in their residence. The report is lodged by victim aged about 16 years. On the basis of said report, police have registered the crime against the present appellant and other co-accused.

4. After registration of the crime, the appellant approached the Special Court for grant of bail. However, the Special Court has rejected the application, considering that there is sufficient evidence against the present appellant, as far as abetment to the other co-accused is concerned.

5. Being aggrieved with the same, present appeal is preferred by the appellant on the ground that there was a love affair between the victim and the other co-accused. Out of a love affair, they had a physical relationship. As far as the role of the present appellant is concerned, she is only providing them an accommodation to stay, as the victim has left the house to perform the marriage with the co-accused. It is submitted that now the investigation is already completed and the charge sheet is already filed, further incarceration of the present appellant is not required. In the facts and circumstances, that out of the love affair there was a physical relationship between the victim and other co-accused, and a very limited role is attributed to the present appellant.

6. Heard learned counsel Mr. M.N. Ali, through video conferencing, who reiterated the same contention and submitted that considering now the investigation is completed and the charge sheet is filed, further incarceration of the present appellant is not

required. In view of that, the order passed by the Special Court deserves to be quashed and set aside.

7. Learned APP and learned counsel for the respondent No.2 strongly opposed the said ground on the ground that the victim was aged about 16 years at the time of the incident. Her consent is not relevant. The present appellant has assisted the co-accused in the commission of the crime. If she is released on bail, she would tamper with the prosecution evidence.

8. After hearing both sides and on perusal of the investigation papers, especially the statement of the victim, it reveals that there was a love affair between other co-accused and the victim. Out of love affair, they were communicating with each other and also roaming together. Out of the love affair, there was a physical relationship developed between them, and as far as the present appellant is concerned, the only role attributed to her is that once she has dropped the victim at National High School, and thereafter victim proceeded along with her brother. The another role attributed to her is that she has provided the accommodation to the victim and the other co-accused and they have chit-chatting with each other. Thus, considering the role attributed to the present appellant, which is very limited role and the

alleged incident is occurred out of the love relationship between the victim and the other co-accused. As far as further incarceration of present appellant is concerned, which is not required. The learned Special Court has not considered the aspect that only limited role is attributed to her. In view of that, the order passed by the Special Court deserves to be quashed and set aside and the appeal deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The appeal is allowed.
- b] The order passed by the Special Judge, Khamgaon, District Buldhana in Regular Criminal Bail Application No. 389/2024 dated 19/09/2024 rejecting the application is hereby quashed and set aside.
- c] The appellant – Arpita Ashok Ingle, shall be released on bail, crime no. 410/2024 registered at Khamgaon City Police Station, District Buldhana for the offences punishable under Sections 64(1), 64(2)(i), 64(2)(m), 65(1), 49, 351(3), 3(5) of the Bharitya Nyaya Sanhita, 2023 read with Section 4(1), 5(L), 6, 17 of the

Protection of Children from Sexual Offences (POCSO) Act, 2012; and under Sections 3(1)(w) (i), 3(1)(w)(ii), 3(2)(v), 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, on executing P.R. Bond in the sum of Rs. 25,000/- with one surety in the like amount.

- d] The appellant shall not enter into the vicinity of Teachers Colony, Khamgaon City, District Buldhana.
- e] The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- f] The appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

The criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]