

CRIMINAL APPEAL NO. 614 OF 2024

...VERSUS...

Mr. M.N.Ali, counsel for appellant.
Ms. M.A.Barbde, APP for respondent/State.
Mr. Shoeb Khan Asgar Khan, counsel for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 13/12/2024

ORAL JUDGMENT :

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

appearing for the parties.

4. By preferring this appeal under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellant has challenged the order passed by the Additional Sessions Judge, Akot, by which the application of the present appellant for grant of bail is rejected.

5. The crime is registered on the basis of the report lodged by the mother of the victim, aged about 16 years, on an allegation that on 24/04/2024, the appellant, who is an auto driver, and the informant used to proceed in the said auto rickshaw for labour work, and therefore there was an acquaintance. By taking advantage of the said acquaintance, he has taken the victim girl, who is a minor, and subjected her for sexual assault. On the basis of the said report, police have registered the crime against the present appellant.

6. After registration of the crime, the appellant approached the Special Court for grant of bail, however the Special Court has rejected the application on the ground that the victim is a minor and her consent is not relevant. Hence, this appeal.

7. Learned counsel for the appellant submitted that the victim was aged about 16 years, and there was a love affair between the victim and the present appellant. Out of love affair, the victim joined the company of the appellant, and said love affair is opposed by the parents of the victim, therefore this false FIR is lodged. He submitted that considering the nature of the allegation and considering the fact that, out of a love affair, there was a physical relationship between them, and now the investigation is completed and charge-sheet is filed, further incarceration of the appellant is not required. In view of that, he be released on bail.

8. Learned APP strongly opposed the said prayer on the ground that the minor victim girl was subjected for sexual assault by abducting her and her consent is not relevant. In view of that, the appeal deserves to be dismissed.

9. The respondent No.2/victim has engaged the counsel and reported the case of the appellant by stating that there was a love affair between her and the appellant, and out of love affair, she went along with him.

10. After hearing both sides and on perusal of the recitals of the FIR and the investigation papers, it reveals that the investigation is already completed and the charge sheet is filed. As far as the allegation against the present appellant is concerned, which is substantiated by the statement of the victim. The contention of the appellant that there was a love affair between him and the victim is not substantiated by the statement of the victim. However, considering that now investigation is already completed and charge-sheet is already filed, 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

- a] The criminal appeal is allowed.
- b] The order passed by the learned Additional Sessions Judge, Akot in Sessions Case No. 38/2024 dated 24/09/2024 is hereby quashed and set aside.
- c] The appellant – ***Sohel Khan Mukhtar Khan***, shall be released on bail, in connection with Crime No.173/2024 registered Police Station, Hiwarkhed

for the offence punishable under Sections 363, 366(a), 376, 376(2)(n), 506 of the Indian Penal Code, 1860 and Section 3(1)w (ii), 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, and Sections 4, 6, 8, 12 of the Protection of Children from Sexual offences Act, 2012, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

- d] The appellant shall not enter into the vicinity of Talai, Tah. Telhara, District Akola till culmination of the trial.
- e] The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The Criminal Appeal is **disposed of**.

[URMILA JOSHI-PHALKE, J.]