



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

CRIMINAL APPEAL NO. 722 OF 2024

APPELLANT : Shaurabh s/o Brijlal Kewat,
Aged about 19 years,
Occupation: Student, r/o Murpar,
Tah. Sadak-Arjuni, District Gondia.

...VERSUS...

RESPONDENTS 1. The State of Maharashtra,
through Police Station In-charge Duggipar,
Tah. Sadak-Arjuni, District Gondia.

2. XYZ in Crime No. 0347/2024,
Police Station Duggipar,
Tah. Sadak-Arjuni, District Gondia.

Mr. Kabir Raj Jhamb, counsel for appellant.
Mr. H.D. Dubey, APP for respondent/State.
Mr. Nikhil D. Dawda, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 16/12/2024

ORAL JUDGMENT :

1. Heard.
2. **Admit.**

3. Heard finally with consent of learned counsel appearing for the parties.

4. The present appeal is preferred under Section 14-A of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, challenging the order passed by the Special Judge and Additional Sessions Judge, Gondia, by which the application of the present appellant for grant of bail is rejected.

5. The crime is registered on the basis of a report lodged by the father of the victim girl alleging that the victim is 17 years of age and studying in 12th Standard. On 24/09/2024, he had been to the market place and when he returned home, his daughter was not at home. Therefore, he searched for her, but he could not find her, and therefore, he lodged the report. After 2 to 3 days, he received a phone call of his daughter, who requested him not to file any police complaint, and she would return after 2 to 3 days, as she did not return. Therefore, he approached the police station and lodged the report against the unknown person. After registration of the crime, the appellant was arrested, and he filed an application for grant of bail. The same was rejected by the Special Court, hence this appeal.

6. Heard learned counsel for the appellant, who submitted that from the recitals of the FIR and statements of the witnesses, it reveals that there was a love affair between the victim and the present appellant. Out of love affair, she joined the company of the appellant and roamed at various places, and also stayed along with him. Thus whatever happened is out of the love affair. The appellant is also aged about 19 years. Thus, two teenagers come together out of a love affair, and developed the physical relationship. Now the investigation is already completed, as far as the further incarceration of the appellant is concerned, which is not required. In view of that, he be released on bail.

7. Learned APP and learned counsel for the victim strongly opposed the said application on the ground that the victim is below 18 years of age, her consent is not relevant. In view of that, the appeal deserves to be rejected.

8. After hearing both sides and on perusal of the investigation papers, it reveals that during the investigation the victim was traced. She was along with the present appellant, and her statement was recorded. From her statement it reveals that, she at her own accord, left the house of her parent and joined the

company of the present appellant. She traveled along with the present appellant at various places and also stayed along with him. She has not made any grievance as far as force used by the present appellant is concerned. The present appellant is also 19 years of age, and the victim is 17 years of age, and out of that love affair, they come together and join the company of each other. As far as the sexual relationship is concerned, it appears to be developed due to the attraction between them. Learned Special Court has not considered the same. Admittedly, this is not a case wherein the appellant has subjected the victim for sexual assault out of lust, but this is the case wherein two youngsters come together out of love affair and develop the physical relationship between them. Now, the investigation is already completed, and charge-sheet is yet to be filed, further incarceration of the present appellant is not required. In view of that, the order passed by the learned Special Judge, deserves to be quashed and set aside. Accordingly, I proceed to pass the following order:

ORDER

- a] The appeal is **allowed**.
- b] The appellant -Shaurabh s/o Brijlal Kewat, shall be

released on bail, in connection with Crime No. 347/2024 registered with Police Station Duggipar, Tah. Sadak Arjuni, District Gondia for the offence punishable under Sections 137(2), 64(2)(m), 87 of Bhartiya Nyaya Sanhita, 2023; and Sections 4 and 6 of Protection of Children from Sexual Offences Act; and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

- c] The order passed by the District Judge-2 and Additional Sessions Judge, Gondia is hereby quashed and set aside.
- d] The appellant shall not induce, threat or promise any witnesses, including victim by contacting her in any manner either physically or through electronic media.
- e] The appellant shall not enter into the vicinity of Girola/Heti, Tah. Sadak Arjuni, District Gondia till culmination of the trial.

- f] The appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
- g] The fees of the appointed counsel be quantified as per Rule.

The criminal appeal is **disposed of**.

[URMILA JOSHI-PHALKE, J.]