



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

CRIMINAL APPEAL NO.32 OF 2025

Sahil s/o Subhash Kawale
Aged about 26 years, Occupation – Labour,
R/o Sangnapur, Tahsil Chamorshi,
District Gadchiroli

...APPELLANT

VERSUS

1. The State of Maharashtra,
through Police Station Officer,
Police Station Chamorshi,
District Gadchiroli
2. XYZ
the victim in FIR/Crime No.299/2024
registered with Police Station Chamorshi,
District Gadchiroli

...RESPONDENTS

Mr. M.A. Deo, Advocate for the appellant.
Mrs. H.N. Prabhu, A.P.P for the State.
Ms A.R. Sharma, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : MARCH 28, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By preferring this appeal, the appellant has challenged the
order dated 26/12/2024 passed by the Additional Sessions Judge,

Gadchiroli in Special Case No.60 of 2024 by which the application for bail of the appellant was rejected in connection with Crime No.299/2024 registered at police station Chamorshi, District Gadchiroli for the offences punishable under Section 506(2), 468, 376(2)(n), 341 and 323 of the Indian Penal Code, Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(2)(v) and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The crime is registered on the basis of report lodged by the victim girl on an allegation that in the year 2018, she was taking education in Yashodhara Vidyalaya. She got acquaintance with the present appellant who expressed his feelings to her though she resisted, he used to follow her and thereafter in the year 2019 when she was 17 years of age he has subjected her for the forceful sexual assault in one agricultural field. He has also obtained her obscene photographs and videos, and thereafter under the duress again and again he subjected her for the forceful sexual assault. He has also forged her Adhar Card as well as School Leaving Certificate to show that she has attained the age of majority and shown that he has performed marriage with her. Thus, he subjected her for the sexual assault repeatedly. On the basis of the said report, police have registered the crime against the present appellant.

4. Learned Counsel for the appellant submitted that there was love affair between the victim and the present appellant. Out of love affair, they performed marriage and at the time of marriage, the victim has already attained the age of majority, therefore, there is no reason for the appellant to forged her documents. He further submitted that as there was a matrimonial discord between them, and therefore, she left the company of the present appellant and filed this false report. He invited my attention towards the statement of Mohan Devidas Suryawanshi and submitted that this statement also shows that they have performed the marriage and at that time the victim has not raised any grievance about the undue influence or coercion upon her. Now, the investigation is already completed and charge-sheet is filed. As far as the offences punishable under Section 468 of the IPC is concerned which is not punishable imprisonment more than 7 years. Considering all these aspects and considering the legal position that the appellant cannot be kept behind bar by way of punishment for an indefinite period, he be released on bail.

5. Learned APP and learned Counsel for respondent No.2 strongly opposed the application and submitted that there is constant apprehension to the victim as to the harm to her person. Said apprehension is further substantiated by the statement of Vaibhav Tulshidas Kunghadkar who is the Private Medical Practitioner to whom

victim has disclosed about the harassment at the hands of the present appellant. It is further submitted that the victim never married with the present appellant but under the misconception of the fact the present appellant is harassing her and subjected her for the sexual assault under the coercion and duress and if he be released on bail he would repeat the similar activities with the present victim, and therefore, the appeal deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers. As per the allegations of the victim that the present appellant has by expressing his feelings subjected her for the forceful sexual assault in the year 2019. The statement of one of the witness Mohan Devidsas Suryawanshi also shows that the present appellant and the victim disclosed to him that they are in a love affair and intending to marry but their family members are opposing the same, and therefore, they fled away from their house and now they want to perform the marriage. One agreement is also on record which is collected during the investigation which also shows that they were intending to marry. Whether it was under the duress or under the influence of present appellant is a matter of evidence. At this stage, considering the statement of the victim and the statement of said Mohan Suryawanshi it reveals that there was relationship between the present appellant and the victim. Subsequently, some discord was there, and

therefore, now they are not communicating with each other and there is no connection between them. Now, the investigation is already completed and charge-sheet is filed. As far as the apprehension raised by the victim is concerned which can be taken care of by imposing certain conditions on the present appellant. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The appeal is allowed.
- (ii) The order dated 26/12/2024 passed by the Additional Sessions Judge, Gadchiroli in Special Case No.60 of 2024 is hereby quashed and set aside.
- (iii) The appellant – Sahil s/o Subhash Kawale in connection with Crime No.299/2024 registered at police station Chamorshi, District Gadchiroli for the offences punishable under Section 506(2), 468, 376(2)(n), 341 and 323 of the Indian Penal Code, Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(2)(v) and 3(1)(w)(ii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, be released on bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iv) The appellant shall not enter into the vicinity of village Chamorshi, District Gadchiroli, till culmination of the trial.

(v) The appellant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case either personally or by way of electronic media.

(vi) A single incident of attempt of the present appellant to approach to the victim would lead to the cancellation of bail.

(vii) The appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

7. The contravention of any of the condition would lead to the cancellation of bail.

8. The appeal is disposed of.

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

(URMILA JOSHI-PHALKE, J.)