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

**CRIMINAL APPEAL NO.85 OF 2025**

Akash @ Lalla s/o Gajanan Ramchaware,  
Aged about 27 Years,  
Occupation : Business,  
R/o Mahaali Nagar,  
Mothi Umri, Akola,  
Taluka and District Akola.

**.... APPELLANT**

**// VERSUS //**

1. State of Maharashtra,  
Through Police Station Officer,  
Police Station, Civil Lines,  
Taluka and District Akola.
2. XYZ in Crime No.25/2023,  
Police Station Officre,  
Police Station, Civil Lines,  
Taluka and District Akola.

**.... RESPONDENTS**

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Mr. Anil Mardikar, Senior Counsel a/b Mr. Digvijay Prakash  
Singh, Counsel for the appellant.  
Ms. Sneha Dhote, APP for the respondent No.1/State.  
Mr. Deepak S. Patil, Counsel for the respondent No.2.  
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**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 03.04.2025**

**ORAL JUDGMENT :**

1. **Admit.**
2. Heard finally with the consent of the learned Counsel  
appearing for the parties.
3. By preferring this appeal, the appellant has challenged  
the order passed by the learned Additional Sessions Judge and  
Special Judge, Akola by which the application of the present

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appellant for grant of bail is rejected. After rejecting the application, the appellant has preferred an appeal bearing No.668/2023 which was withdrawn with liberty file afresh after nine months if there is no substantial progress in the trial. The appeal is filed mainly on the ground that after passing of the order of this Court on 06.03.2024, there is absolutely no progress in the trial and the appellant is incarcerated as the trial is not progress.

4. Heard learned Senior Counsel Mr. Mardikar for the appellant, who submitted that the appellant is arraigned as an accused in connection with Crime No.25/2023 registered under Sections 376, 354, 354-B, 506 of the Indian Penal Code and under Sections 3, 4, 5, 6, 8, 9(g) and 10 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. The crime is registered on the basis of report lodged on an allegation that the informant who is the grandmother of the victim alleged that on 15.01.2023 when the victim accompanied with her friend on a night walking, at that time the appellant approached them by saying that he wants to speak to the victim and thereafter, the victim and her friend went along with the appellant and the victim was subjected for the forceful sexual assault. On the basis of the said report, police have registered the crime against the present appellant. He submitted that as far as

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the merits of the matter is concerned, initially the appeal was withdrawn, but, now there is absolutely no progress in the trial and trial is held up. There is a violation of Article 21 of the Constitution which is enshrined the right of the accused of a speedy trial. In view of that, the appellant be released on bail by allowing this appeal.

5. Learned APP and learned Counsel for the respondent No.2 strongly opposed for the same and submitted that the roznama shows that initially trial was prolonged due to the application filed by the appellant, and therefore, the ground of delay in trial is not available to the present appellant. In view of that, the appeal deserves to be dismissed.

6. After hearing both sides and on perusal of the investigation papers, especially the statement of the victim and the statement of her friend which show the involvement of the appellant in the alleged offence, and therefore the initial disinclination was there, but now the only ground raised by the appellant that there is inordinate delay in trial. In support of his contention, he placed reliance on the certified copy of the roznama. The certified copy of the roznama shows that after passing of the order by this Court on 06.03.2024 there is absolutely no progress in the trial. The roznama shows that the trial was prolonged only because the appellant was not produced before the Court. No efforts are taken either by the prosecution or by the Court to secure the presence of

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the appellant before the Court. There are catena of decisions of this Court as well as the Apex Court which speaks about the right of the present appellant as to the fundamental right, as to the speedy trial which is enshrined Article 21 of the Constitution. Learned Senior Counsel for the appellant has placed reliance on the decision of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh** reported **(2024) 8 SCC 293** wherein by referring the earlier decision in **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another** **(2024) 9 SCC 813** wherein the Hon'ble Apex Court observed that "if the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime. "

7. In the light of the above observation, if the facts of the present case are taken into consideration admittedly, the involvement of the present appellant reveals in the crime, however, the appellant cannot be kept behind bar for an indefinite period. The right of the present appellant as to the speedy trial enshrined Article 21 of the Constitution is affected. The trial is proceeding by

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the snail's speed. 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 Special Court in Special (POCSO) Case No.42/2023 dated 09.08.2023 is hereby quashed and set aside.
- (iii) The appellant **Akash @ Lalla s/o Gajanan Ramchaware** shall be released on bail in connection with Crime No.25/2023 registered with Police Station Civil Lines, Akola, for the offence punishable under Sections 376, 354, 354-B, 506 of the Indian Penal Code and under Sections 3, 4, 5, 6, 8, 9(g) and 10 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 in the sum of Rs.25,000/- with one solvent surety of the like amount.
- (iv) The appellant shall attend the Civil Lines Police Station, Akola twice in a month on 1<sup>st</sup> and 15<sup>th</sup> of every month till culmination of trial.
- (v) The appellant shall not leave the jurisdiction of Akola district without prior permission of the Court.
- (vi) The appellant shall not enter into the vicinity of Tathod Nagar, Mothi Umri, Akola, till the culmination of the trial.
- (vii) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The appeal is disposed of.

**(URMILA JOSHI-PHALKE, J.)**