



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

CRIMINAL APPEAL NO. 128 OF 2025

APPELLANT

Aryan @ Lucky Kamlesh Lavankar (In Jail)
Aged about 19 years, Occu: Student,
R/o Barse Nagar, Near Darga, Nagpur.

-VERSUS-

RESPONDENTS

1. State of Maharashtra, through
Police Station Officer, Police Station,
Pachpaoli, Nagpur.
2. ABC (Minor Victim),
Aged about 47, Occu: Labour,
through Police Station Officer, Police
Station, Pachpaoli, Nagpur.

Mr. P.S. Jaiswal, counsel for appellant.
Mr. Amit Madiwale, APP for respondent/State.
Ms. Varsha Warade, counsel (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 23/06/2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned

counsels appearing for the parties.

3. By preferring this appeal, the appellant has challenged the order passed below Exhibit-11 in Special Case No. 497/2024, passed by the Additional Sessions Judge-14 and Special Judge under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Nagpur, by which the application of the present appellant for grant of bail was rejected.

4. The appellant is arraigned as an accused in connection with Crime No. 516/2024, registered with Police Station Pachpaoli, Nagpur, for the offences punishable under sections 376, 376(A & B), 376(2)(j), and 376(3) of the Indian Penal Code, 1860 (hereinafter referred to as ' IPC ' for short); and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as ' POCSO Act' for short); and Sections 3(1)(w) (i)(ii), 3(2)(v) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as ' SC/ST Act ' for short).

5. The crime is registered on the basis of a report lodged by grandmother of the victim girl, on an allegation that her granddaughter, who is aged about 9 years, was subjected for

sexual harassment by the present appellant by touching to her private part. On the basis of the said report, police have registered the crime against the present appellant. The present appellant was arrested on 04/06/2024, since then, he has been behind bar.

6. Heard learned counsel for the appellant, who submitted that as far as the allegations are concerned, which are levelled out of the previous dispute. Now, the investigation is already completed, and the charge sheet is already filed. He invited my attention towards the statement of victim girl and submitted that the statement of victim girl nowhere reveals that she was subjected for penetrative sexual assault. At the most, the offence under Section 8 of the SC/ST Act is made out. Now, the investigation is already completed and the charge-sheet is already filed, and the alleged offence is punishable with imprisonment up to five years. Considering all these aspects, appellant be released on bail.

7. Learned APP and learned counsel for the respondent No.2/victim strongly opposed the said application on the ground that 9 years girl was subjected for sexual harassment by the present appellant. The statement of the victim and her

grandmother substantiates the contention. In view of that, the order passed by the learned Special Court deserves to be maintained, and the appeal deserves to be dismissed.

8. On hearing both sides and on perusal of the investigation papers, it reveals that, as per the allegations, the present appellant is residing in the neighborhood of the informant, allegedly called the victim girl and subjected her for forceful sexual assault by touching her private part. The statement of the victim is also recorded, and she has also narrated the similar facts. As far as the penetrative sexual assault is concerned, there is no allegation to that effect. The allegation is only to the extent of touching to her private part.

9. Moreover, the allegations levelled against the present appellant, for which the punishment upto five years is provided. The investigation has already been completed and charge-sheet has been filed. However, considering the nature of the allegations, some conditions required to be imposed. In view of that, I proceed to pass the following order.

a] Criminal appeal is **allowed**.

- b] The order passed by the learned Additional Sessions Judge-14 and Special Judge under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Nagpur, rejecting the bail application below Exhibit-11 is hereby quashed and set aside.
- c] The appellant – **Aryan @ Lucky Kamlesh Lavankar** shall be released on bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- d] The appellant shall not enter into the vicinity of *Barse Nagar* in the jurisdiction of Police Station Pachpaoli, till culmination of the trial.
- e] The appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
- f] The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case either physically or through electronic media.

g] The fees of the appointed counsel be quantified as per Rule.

Criminal appeal is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]