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

CRIMINAL APPEAL NO.167 OF 2025

Sagar Sanjay Tarmale,
Aged : 21 Years,
Occupation : Labour,
R/o. Dhasalwadi, District Buldhana. **APPELLANT**

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Raipur, Buldhana.
2. XYZ, Crime No.264/2024,
through Police Station,
Raipur, District Buldhana. **RESPONDENTS**

Mr. S. V. Sirpurkar, Counsel for the appellant.
Ms. S. S. Dhote, APP for the respondent No.1 /State.
Ms. Ragini Swami, appointed Counsel for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 08.05.2025

1. Heard.
2. **Admit.**
3. The present appeal is preferred under Section 14-A of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, challenging the order passed by the learned Additional Sessions Judge and Special Judge, Buldhana in Special Case No.12/2025 on below Exh.19 dated 17.03.2025 by which the application of the present appellant for grant of bail is rejected.

(2)

4. Heard learned Counsel for the appellant, who submitted that the crime is registered on the basis of the statement of the mother of the victim girl on an allegation that her minor daughter was kidnapped by the present appellant and subjected for the forceful sexual assault. On the basis of the said report, police have initially registered the offence punishable under Sections 363, 366 of the Indian Penal Code. After registration of the offence, the statement of the victim was recorded and it revealed that she was having a love affair with the present appellant, and therefore he had taken her and subjected her for the forceful sexual assault. After recording the statement, offence under Sections 137(2), 54, 64(1), 3(5) of the Bharatiya Nyaya Sanhita, 2023 was registered as well as under Sections 4, 6, 8, 12 and 17 of the Protection of Children from Sexual Offences Act and under Sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Learned Counsel for the appellant submitted that from the statement of the victim, it reveals that she was on the verge of attaining the majority. Out of a love affair, she went along with the present appellant and physical relationship was developed between them. As far as the further incarceration is concerned, which is not required as investigation is already completed and charge-sheet is filed. The medical certificate shows that there was a physical activity with the victim, but considering

(3)

the circumstances under which the said activity had taken place between them, the appeal deserves to be allowed.

5. Learned APP and learned Counsel for the respondent No.2 – victim strongly opposed for the same on the ground that as the victim is below 18 years of age, her consent is not required, and therefore, the learned Special Court has rightly rejected the application. In view of that, no interference is called for.

6. After hearing both sides and on perusal of the investigation papers, the FIR is lodged by the mother of the victim girl alleging that her minor daughter was kidnapped by the present appellant and thereby he has committed the offence. During investigation, the victim was searched, her statement was recorded and from which it reveals that she was studying in 12th std. at the relevant time. Her birth date is 12.09.2007 and out of a love affair, she went along with the present appellant. Out of a love affair itself, there was a physical relationship developed between them. Admittedly, now the investigation is already completed and charge-sheet is filed. Considering the statement of the victim and the facts and circumstances under which the alleged incident has taken place, it appears that the offence is not committed by the present appellant out of lust, but it is out of a love affair. In view of

(4)

that, the appellant has made out a case for grant of bail.

Accordingly, I proceed to pass following order:

ORDER

(i) The appeal is allowed.

(ii) The order dated 17.03.2025 passed by the learned Special Judge, Buldhana, in Special Case No.12/2025 on below Exh.19, rejecting the application for grant of bail is hereby quashed and set aside.

(iii) The appellant **Sagar Sanjay Tarmale** shall be released on bail in connection with Crime No.264/2024 registered with Police Station, Raipur, District Buldhana for the offence punishable under Sections 137(2), 54, 64(1), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6, 8, 12, 17 of the Protection of Children from Sexual Offences Act and Sections 3(1)(w)(i)(ii), 3(2)(v), 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.

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

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

(vi) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

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

(5)

The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.