



(1)

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

CRIMINAL APPEAL NO.209 OF 2025

1. Vishal s/o Gangadharrao Dhole,
Aged about 20 Years,
Occupation : Service,
R/o. Khiri (Khurd),
Post Khondhali,
Tahsil Katol, District Nagpur. **..... APPELLANT**

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Kondhali,
Taluka Katol, District Nagpur.
2. XYZ, the victim in crime
No.188 or 2025, registered for
offences under Sections 64(1),
351(3) of the Bharatiya Nyaya
Sanhita, 2023 and Section 3(1)(w)(I)(II),
3(2)(v) of the SC and ST Prevention of
Atrocities Act, 1989. **.... RESPONDENTS**

Mr. S. G. Karmarkar, Counsel for the applicant.
Ms. S. S. Dhote, APP for the respondent No.1 /State.
Ms. Ragini K. Swami, appointed Counsel for the respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27.06.2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. By preferring this appeal, the appellant has challenged
the order passed by the learned Special Judge, Nagpur, rejecting

(2)

the bail application of the present appellant in connection with Crime No.188/2025 registered with Police Station Kondhali, District Nagpur for the offence punishable under Sections 64(1), 351(3) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(w)(i) (ii), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act of 1989').

4. The crime is registered on the basis of report lodged by the victim aged about 25 years on an allegation that she is acquainted with the accused. On 23.03.2025 when she was waiting for bus on the bus stand, the accused approached to her on a two-wheeler and offered lift to her, thereafter he taken her in the agricultural field and subjected her for the forceful sexual assault. On the basis of the said report, police have registered the crime against the present appellant. After registration of the crime, he approached to the Special Court for grant of bail, the same was rejected, hence this appeal.

5. Heard learned Counsel for the appellant, who submitted that from the recitals of the FIR itself it reveals that was a consensual act, but as there was some dispute between them therefore, this false report came to be lodged by the informant on the next day at about 1.30 p.m. He submitted that even accepting the allegation as it is, now the investigation is already completed, charge-sheet is filed, further incarceration of the present appellant

(3)

is not required, in view of that, he be protected by granting regular bail.

6. Learned APP and learned Counsel for the respondent No.2 - victim strongly opposed the same on the ground that the victim was taken by the present appellant under misconception of fact and thereafter, subjected her for forceful sexual assault. Considering the statement of the victim and the medical report *prima facie* case is made out and hence, the bail application rightly rejected by the learned Special Court. In view of that, the appeal be devoid of merits and liable to be dismissed.

7. After hearing both sides and on perusal of the investigation papers, it reveals that as per the allegation, respondent No. 2 - victim was taken by the present appellant on the pretext of dropping her at the place where she wants to go and thereafter taken in the agricultural field and subjected her for the forceful sexual assault. The recitals of the FIR further shows that after the incident, victim again returned along with the present appellant at her house at about 9.00 p.m. Thus, considering the recitals of the FIR and the statement of the victim, it is apparent that there was a consensual relationship between both of them. Even considering the allegation as it is, now investigation is already completed, charge-sheet is filed, and further incarceration of the present appellant is not required. Learned Special Court has not

(4)

considered the same and erroneously rejected the application, and therefore, the appeal deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is hereby allowed.
 - (ii) The order dated 07.04.2025 passed by the learned Special Judge, Nagpur in Criminal Bail Application No.958/2025 is hereby quashed and set aside.
 - (iii) The appellant **Vishal s/o Gangadharrao Dhole** shall be released on bail, in connection with Crime No.188/2025 registered with Police Station Kondhali, District Nagpur for the offence punishable under Sections 64(1), 351(3) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 3(1)(w)(i)(ii), 3(2)(v) 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 in the like amount.
 - (iv) The appellant shall not enter into the vicinity of village Dhamangaon, Taluka Katol, District Nagpur, 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.
8. The fees of the appointed Counsel be quantified as per rules.
9. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)