



(1)

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

CRIMINAL APPEAL NO.298 OF 2025

Dhiraj @ Chintu s/o Dinesh Neware,
Aged about 27 Years,
R/o. Shiv Chouk, Sanjay Nagar,
Tahsil and District Gondia.

.... APPELLANT

// VERSUS //

1. The State of Maharashtra
through Deputy Superintendent of
Police, Police Station Gondia City,
Tahsil and District Gondia.

2. XYZ
(Victim through Mother (informant)
in Crime No.119/2025
registered at Police Station
Gondia City, District Gondia)

.... RESPONDENTS

Mr. Aniket Narendra Rangari, Counsel for the appellant.
Mr. Nitin Rode, APP for the respondent No.1/State.
Mr. Kushal Jain, appointed Counsel for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15.07.2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.**
3. By preferring this appeal, the appellant has challenged the order passed by the learned Special Judge and Additional Sessions Judge, Gondia in Special Case No.58/2025 below Exh.3.
4. The present appellant is arraigned as an accused in connection with Crime No.119/2025 registered with Police Station

(2)

Gondia City, for the offence punishable under Sections 4, 6 of the Protection of Children from Sexual Offences Act and under Sections 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (for short ' the Act of 1989').

5. The crime is registered on the basis of report lodged by the mother of the victim on an allegation that on 05.03.2025, when she did not found her daughter in bed, at about 11.00 p.m. she came out of the house to see her daughter, she witnessed the present applicant and her daughter together and on inquiry with her daughter, it revealed that the present applicant is sexually harassing her daughter. On the basis of the said report, police have registered the crime against the present appellant.

6. After registration of the crime, the present appellant approached the Sessions Court for grant of bail. However, the Sessions Court has rejected the application and hence, this appeal.

7. Heard learned Counsel for the appellant, who submitted that there was a love affair between the victim and the present appellant. The victim herself left the house and joined the company of the present appellant and stayed along with him. He submitted that the physical relationship was developed between them out of a love affair. It is not the case wherein the victim was subjected for the sexual assault out of lust. Now, the investigation is completed,

(3)

charge-sheet is filed and further incarceration of the present appellant is not required. In view of that, the appellant be released on bail by allowing this appeal.

8. Learned APP and learned Counsel for the respondent No.2 – victim strongly opposed the said appeal on the ground that the victim is 14 years of age, her consent is not relevant. In view of that, the appeal deserves to be dismissed.

9. On hearing both sides and on perusal of the investigation papers, it reveals that initially the FIR is lodged against the present appellant on the basis of the disclosure made by the victim. The statement of the victim is also recorded, which shows that on 29.12.2024, she met the present appellant, who called her and therefore, by taking her clothes from the home, she left the home and joined the company of the appellant and thereafter, she roamed along with him. She also visited his parents' house at Jabalpur and thereafter, they returned home, which reveals that the physical relationship between them was out of a love affair. Admittedly, now the investigation is completed and charge-sheet is filed. The consent of the victim is relevant, however, in the facts and circumstances of the above case, the physical relationship was developed between them out a love affair and now the investigation is completed, charge-sheet is filed, no purpose will be served by keeping him behind bar. In view of that, the order passed by the

(4)

learned Special Judge and Additional Sessions Judge, Gondia deserves to be quashed and set aside. Accordingly, I proceed to pass following order:

ORDER

- (i) The appeal is allowed.
- (ii) The order passed by the learned Special Judge and Additional Sessions Judge, Gondia below Exh.3 in Special Case No.58/2025, is hereby quashed and set aside.
- (iii) The appellant **Dhiraj @ Chintu s/o Dinesh Neware** shall be released on bail in connection with Crime No.119/2025 registered with Police Station Gondia City, District Gondia for the offence punishable under Sections 4, 6 of the Protection of Children from Sexual Offences Act, and under Sections 3(1)(w)(i), 3(1)(w)(ii) and 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 in the like amount.
- (iv) The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (v) The appellant shall not enter into the vicinity of Sanjay Nagar, Bandu Chowk Gondia, till culmination of the trial.
- (vi) The appellant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

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

11. The appeal is disposed of.

(URMILA JOSHI-PHALKE, J.)