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

CRIMINAL APPEAL NO. 683 OF 2024

Shubham S/o Dashrath Khatri,
Age 26 years, Occ. Labour,
R/o. Itwar Bazar, Tah. & Dist. Wardha. **APPELLANT**

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Wardha City, Wardha.

2. X.Y.Z./Victim
(Informant in Crime No. 497/2023 registered with Police Station, Wardha City on 26.04.2023.) **RESPONDENTS**

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Mr. R.P. Durge, Advocate h/f Mr. R.R. Vyas, Advocate for the Appellant.
Mr. Neeraj Jawade, A.P.P. for the Respondent No.1/State.
Ms.R.K. Swami, Advocate (Appointed) for the Respondent No.2.

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CORAM : URMILA JOSHI PHALKE, J.

DATED : 30th JUNE, 2025.

ORAL JUDGMENT :-

1. Heard.

2. Admit.

3. By preferring this Appeal, the Appellant has challenged the order passed by the Special Judge (POCSO Act), Wardha in Bail Application No. 554/2023 dated 05.12.2023 rejecting the application of the present Appellant for grant of bail.

4. The Appellant came to be arrested on 19.09.2023 in connection with Crime No. 497/2023 registered with Police Station Wardha City, District Wardha under Sections 363, 376(2)(n) and 506 of the Indian Penal Code ("IPC" for short) and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO" for short) and under Sections 3(1)(w)(i)(ii), 3(2)(va), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as "the Atrocities Act" for short).

5. The crime is registered on the basis of the report lodged by the father of the Victim alleging that on 25.04.2023 his daughter got missing, has left the house and not returned

back. On the basis of the said report initially the crime was registered under Section 363 of IPC against the unknown person. During search of the Vitim, the Victim was found and her statement was recorded by the Investigating Officer. During her statement, it reveals that it was the present Appellant who has taken her on his motorcycle and thereafter subjected her for forceful sexual assault. On the basis of the said statement, the crime was registered under Sections 376 (2)(n) and 506 of the IPC and under Sections 4 and 6 of the POCSO Act. After registration of the crime, the Appellant approached to the Special Court for grant of bail, the same was rejected, and therefore, the present Appeal is filed.

6. Heard learned Counsel for the Appellant, who submitted that, the evidence of the Victim is already recorded, the Appellant is the relative of the Victim aged about 26 years, as far as the allegations are concerned, which are false and baseless. Considering the fact that now the evidence of the Victim is already recorded, no purpose will be served by keeping the Appellant behind bars. He also invited my attention to the various statements of the witnesses and submitted that it was

the Victim who has joined the Company of the present Appellant. Thus, it can be ascertained that it was a love affair and out of love affair the alleged incident has taken place.

7. *Per contra*, learned APP for the Respondent No.1/State and learned Counsel for the Respondent No.2/Victim strongly opposed the Appeal and submitted that, during the pendency of the trial the relatives of the present Appellant pressurized the Victim, threatened her regarding the same, and therefore, another Crime No. 1930/2024 under Section 232(1), 115(2), 352, 351(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023 was registered against one Ritesh Dashrath Khatri and Reshma Shubham Khatri. Thus, if the Appellant is released on bail he would tamper with the prosecution evidence as other witnesses are yet to be examined. On merits, they have submitted that the allegations levelled by the Victim are substantiated by the medical evidence and if the Appellant is released on bail as he is the relative of the Victim, he may pressurize the other witnesses and for that reason the Appeal deserves to be dismissed.

8. After hearing both the parties and on perusal of the

entire investigation papers, it reveals that, the Victim is not having Mother and she is residing alongwith her Father and her maternal aunt is looking after her. On the day of incident, she was taken by the present Appellant, who is her relative on the pretext that her maternal aunt has called her and thereafter taken her at Village Rajangaon and subjected her for the forceful sexual assault. This Allegation is substantiated by the medical evidence. It further reveals from the investigation papers that, after completion of the investigation and after filing of the charge-sheet, she was threatened by the relatives of the present Appellant and regarding the same another crime is registered. She has informed the said incident to the learned Trial Court also. Thus, considering the same, the apprehension of the learned APP and learned Counsel for the Victim has some substance if the Appellant is released on bail, there is every likelihood of tampering of the prosecution witnesses. Though the Victim is examined but other witnesses are yet to be examined and considering the same the learned Trial Court has rightly rejected the Application, and therefore, I do not find any merit in the contention of the learned Counsel for the Appellant. In view of that, the Appeal deserves to be dismissed.

Accordingly, I proceed to pass the following order:

O R D E R

i. The Appeal is **dismissed**.

ii. Fees of the learned Appointed Counsel be quantified as per rules.

9. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)

S.D.Bhimte

Signed by: Mr.S.D.Bhimte
Designation: PA To Honourable Judge
Date: 01/07/2025 17:54:00