



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

CRIMINAL APPEAL NO.149/2025

(Nehal S/o Shamsundar Kumbhare Vs. The State of Maharashtra, through Police Station Officer Police Station
Aheri, District Gadchiroli)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.M. Daga, Advocate for the Appellant.
Mr. Bhagwan M. Lonare, A.P.P for the Respondent No.1/State.
Ms. Ayushi Dalal, Advocate (appointed) for the Respondent No.2.

CORAM: NEERAJ P. DHOTE, J.

DATED: 17.2.2026.

This is an Appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "SCST Act") as the Regular Bail Application of the Appellant is rejected by the learned trial Court by order dated 30.12.2024 below Exh.20 in Special (POCSO) Case No.125/2023.

2. Heard the learned Advocate for the Appellant, the learned A.P.P. for the State and the learned Advocate for the Respondent No.2/Victim. With their assistance perused the papers.

3. The case of the prosecution is that, the Victim who was 15 years and 9 months old, on 10.06.2023 had gone to the school for taking her Transfer Certificate (T.C.). Her Teacher informed her that, the T.C. would be issued later on. When the Victim was on way to home, she saw the Appellant, who was proceeding on the motorcycle. The Victim made phone call to the Appellant and called him at the place where she was standing. The Appellant came to the Victim. The Victim asked the Appellant to take her with him to a place where she

would be comfortable as she was not feeling well. The Appellant took the Victim on the motorcycle at the place of his friend Roshan (accused No.1). The Appellant provided water to the Victim. After having the water, the Victim felt dizziness. The Victim was raped by the Appellant and the accused No.1 Roshan. The Victim left the said place and came to the bus-stop and returned home. She informed the incident to her mother and on 12.06.2023 the incident was reported to the Aheri Police Station. The Crime bearing No.0197/2023 came to be registered with the Aheri Police Station for the offence punishable under Sections 376, 376(2)(n), 376(3), 376-D, 376DA, 377 read with Section 34 of the Indian Penal Code (for short 'I.P.C.') and for the offence punishable under Sections 4, 6 and 12 of the Protection of Children for Sexual Offences Act, 2012 (for short "POCSO Act"). After the investigation, the offence punishable under Sections 3(1)(w)(i)(ii) and 3(2)(v) of the SCST Act came to be included in the crime. After the investigation, the Appellant and the co-accused came to be chargesheeted. The Appellant filed the Application for regular bail before the learned trial Court, which came to be rejected by the impugned order.

4. The learned Advocate for the Appellant submits that, there is delay of 2 days in reporting the incident to the Police Station. The Victim herself called the Appellant and went with him. The medical evidence do not support the Victim's version. Statement of one witness Pratik, who had gone to the said place shows that, the Victim was having snacks with accused persons. Though the Charge was framed way back on 10.10.2024, there is no progress in the trial. He submits that, in this view of the matter, the Appellant be released on

bail and he is ready to abide by any terms and conditions. In support of his contentions, he cited the judgments of the Hon'ble Supreme Court in *Mahesh Yadav V/s. State of U.P. in Criminal Appeal (@ Special Leave Petition (Cri.) No.12712/2025)*, in *Arjun Jalba Ichke V/s. The State of Maharashtra and Anr. in Criminal Appeal (@ SLP (CRL.) No.13521/2024)* and *Criminal Appeal No.4144/2024 (arising out of S.L.P (Criminal) No.11589/2024)*.

5. The Appeal is opposed by the learned A.P.P and the learned Advocate for the Respondent No.2/Victim. They submit that, on going through the report lodged by the Victim, there is *prima facie* case against the Appellant. The medical evidence corroborates the report lodged by the Victim. For three months the Court was vacant and, therefore, the delay cannot be attributed to the prosecution. It is submitted that, the Appeal be dismissed.

6. Perusal of the above referred decisions relied upon by the learned Advocate for the Appellant shows that, in the facts of those cases, the Appellants therein were directed to be released on bail on the ground of delay in trial.

7. Perusal of the impugned order passed by the learned trial Court shows that, the learned trial Court itself was of the view that, instead of granting bail, the trial should proceed expeditiously, which would be in the benefit of both the sides. The said order is dated 30.12.2024. Despite the observations by the learned trial Court in the impugned order that, the trial should be expedited, undisputedly, there is no progress in the trial. The incident is dated 10.06.2023. The Appellant came to be arrested on 12.06.2023. Undisputedly, the Charge is framed by the learned trial Court on 10.10.2024. The

copies of Roznama placed on record by the learned Advocate for the Appellant indicate that, only for a period of three (3) months the Court was vacant. Undisputedly, none of the witnesses have been examined by the prosecution till date. The impugned order shows that, on the ground of possibility of tampering with the prosecution's evidence, the learned trial Court rejected the Application for regular bail. This being the factual scenario of the matter and no progress in the trial despite specific observations by the learned trial Court to expedite the matter and the Appellant is behind bars for a period of 2 years and 8 months, the Appellant can be enlarged on bail by imposing appropriate conditions so that, the apprehension expressed by the learned trial Court in respect of tampering with the prosecution's evidence can be taken care of. Hence, the following order.

ORDER

- i) The impugned order dated 30.12.2024 below Exh.20 passed the learned trial Court is quashed and set aside.
- ii) The Appellant be released on bail on executing PR. Bond of Rs.25,000/- and one surety in the like amount.
- iii) The Appellant shall report the Aheri Police Station, District Gadchiroli once in a week on every Monday between 11.00 a.m. to 02.00 p.m. until further orders.
- iv) The Appellant shall co-operate in the expeditious trial of the case.
- v) The Appellant shall not tamper with the prosecution's witnesses in any manner.

- vi) The Appellant shall not enter the vicinity of the village where the Victim is residing.
- vii) The fees of the learned Advocate for the Respondent No.2 is quantified at Rs.10,000/-. The same shall be paid by the High Court Legal Services Authority.
- viii) The Appeal stands disposed of in the above terms.

(NEERAJ P DHOTE, J.)