



2024:DHC:6386



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on: 23.08.2024

+ BAIL APPLN. 2740/2023

LAXMI NARAYAN

..... Petitioner

Through: Mr. Ravi Mehta, Ms. Priyanka Singh,
Mr. Rajat Kanojia, Mr. Rahul Kumar
Saxena, Ms. Nikha Kanojia, Mr.
Satpal Yadav and Mr. Priyank
Chauhan, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr. Ritesh Kumar Bahri, APP for
State with ACP Richpal Singh and
Insp. Mahipal Singh, PS. ISC/Crime
Branch, PS. Chanakayapuri, Delhi.
Mr. Mehmood Pracha, Mr. Jatin
Bhatt, Mr. R.H.A. Sikander, Mr.
Sanawar and Mr. Mohd. Shameem,
Advs. for victim

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. Whether it is mandatory to video record the present bail proceedings in terms of Section 15A(10) of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, [in short 'the Act'] arising out of a



criminal case relating to the offences under the Act, is the short question to be considered in the present judgment.

2. To put the entire discussion that is to follow into context, it is apposite to reproduce at the outset the relevant extract of Section 15A(10) of the Act, which reads as under:

“15A. Rights of victims and witnesses.—(1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.

xxxx xxxx xxxx xxxx

(3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

xxxx xxxx xxxx xxxx

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses—

- (a) the complete protection to secure the ends of justice;***
- (b) the travelling and maintenance expenses during investigation, inquiry and trial;***



- (c) the social-economic rehabilitation during investigation, inquiry and trial; and*
- (d) relocation.*

(7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.

(8) Without prejudice to the generality of the provisions of subsection (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including—

- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;*
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;*
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:*

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

(9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation,



coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.

(10) All proceedings relating to offences under this Act shall be video recorded.

(11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as—

- (a) to provide a copy of the recorded First Information Report at free of cost;*
- (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;*
- (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;*
- (d) to provide relief in respect of death or injury or damage to property;*
- (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;*
- (f) to provide the maintenance expenses to the atrocity victims and their dependents;*
- (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;*
- (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;*
- (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;*
- (j) to take necessary precautions at the time of medical examination;*



(k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;

(l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;

(m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;

(n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.

(12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.”

(emphasis supplied)

3. The petitioner has filed the present petition seeking regular bail under Section 439 CrPC in connection with FIR No.0261/2021 under Sections 302/304/376/342/506/201/34 IPC, Section 6 of POCSO Act and Section 3 of the SC/ST Act registered at Police Station Delhi Cantt, South-West, Delhi. A similar bail application of the petitioner filed under Section 439 CrPC was rejected by the Court of learned ASJ-01 (POCSO), Patiala House Courts, New Delhi *vide* order dated 08.06.2023.

4. Mr. Mehmood Pracha, the learned counsel appearing on behalf of the complainant at the outset has made a submission that in view of sub-section (10) of Section 15A of the Act, all proceedings relating to offences under the Act, including the present one, are to be video recorded.



5. Elaborating on his submissions, he submits that term ‘victim’ has been defined under Section 2(1)(ec) of the Act to mean - “*any individual who falls within the definition of the Scheduled Castes and Scheduled Tribes under clause (c) of sub-section (1) of section 2, and who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under this Act and includes his relatives, legal guardian and legal heirs.*”

6. He contends that as in the present case, the minor daughter of the complainant was raped and murdered by the accused persons and for the reason that the complainant belongs to the Scheduled Caste community, he is a victim within the meaning of Section 2(1)(ec) of the Act. Further, as some of the offences invoked in the present case are under the Act as well, the provisions of Section 15A(10) of the Act will apply to the present bail proceedings and it is obligatory to video record the same.

7. To buttress his contention, he has referred to the Statement of Objects and Reasons of the Amending Act 1 of 2016 whereby the Act was amended to insert Chapter IVA in the Act, to contend that the amendment has been brought about to outline in greater detail and strengthen the public accountability provisions under the Act. He submits that the title of Chapter IVA of the Act, as well as, caption of Section 15A is - ‘*Rights of victim and witnesses*’ thus, it is the right of a victim as defined under Section 2(1)(ec) to seek video recording of the proceedings and the same needs to be protected.

8. In support of his submission, Mr. Pracha has relied on a decision of the High Court of Bombay in ***Dr. Hema Suresh Ahuja and Others vs. State of Maharashtra and Another, 2024 SCC OnLine Bom 784*** as well as on a



decision of Kerala High Court in *State of Kerala vs. Nowfal, Crl. M.C. No. 3970 of 2021*.

9. *Per contra*, Mr. Ritesh Kumar Bahri, learned APP for State has relied on a decision of the Hon'ble Supreme Court in *Nipun Saxena and another vs. Union of India and others, (2019) 2 SCC 703*, to submit that in the said decision it has been specifically held by the Hon'ble Supreme Court that no person can print or publish in print, electronic, social media, etc., the name of the victim under the POCSO Act or even in a remote manner disclose any fact which can lead to the victim being identified and which should make her identity known to public at large.

10. He also refers to Section 23 of the POCSO Act and Section 228A IPC, which in effect punish the disclosure of the identity of the victim of sexual offences, to submit that the said provisions will override the provision of Section 15A(10) of the Act.

11. In this backdrop, he contends that the bail proceedings in the present case which involves offences under the POCSO Act as well, need not be video recorded. He has placed reliance on a decision of the High Court of Sikkim at Gangtok in *Subash Chandra Rai vs. State of Sikkim, 2018 SCC OnLine Sikk 29* as well as on a decision of a coordinate bench of this Court in *Saleem vs. State of NCT of Delhi & Anr., 300 (2023) DLT 714*, to submit that the identity of victim under the POCSO Act should not be disclosed in any manner, whatsoever.

12. Similar argument has been put forth by the learned counsel for the petitioner / accused.

13. In rejoinder, Mr. Pracha submits that the argument advanced by the prosecution and by the learned counsel for the accused that Section 23 of the



POCSO Act and Section 228A IPC will override the provision of Section 15A(10) of the Act, is not tenable for the following reasons, *firstly*, Section 15A(10) speaks only of video recording of the proceedings and does not, at all, say anything about publication of video recording, or even supply of such recording to any person. *Secondly*, Section 23 of the POCSO Act and Section 228A IPC are, in fact, in the nature of safeguard to protect the identity of the victim of sexual offence, which will apply to the video recordings under Section 15A(10) of the Act, with equal force.

14. He submits that such video recording cannot be provided to any person other than the victim. Therefore, it is his submission that identity of the victim remains protected even if the proceedings are video recorded. He further adds there is no conflict between the provisions of Section 15A(10) of the Act on one hand and Section 23 of the POCSO Act and Section 228A IPC on the other hand. He places reliance on the decisions in *Sarwan Singh & Anr v. Kasturi Lal 1977 (1) SCC 750* and *Ajoy Kumar Banerjee & Ors. v. Union of India & Ors., 1984 (3) SCC 127*, to contend that the need for resolution of a conflict between two statutes arises only when there is an actual conflict between the provisions and when the provisions operate in the same field, which is not a case here.

15. He submits that in any case, Section 20 of the Act provides for an overriding effect over other laws. He also places reliance on the observations of the Hon'ble Supreme Court in *Solidaire India Ltd. v. Fairgrowth Financial Services, (2001) 3 SCC 71*, to contend that it is trite law that when two enactments contain *non-obstante* clauses, the provision enacted later in time would prevail. Elaborating further, he submits that Section 15A(10) of the Act was introduced by an amendment in the year



2016, thus, the Legislature was aware about the provisions of Section 228A IPC and Section 23 of the POCSO Act, which were introduced/enacted in the years 1983 and 2012, respectively.

16. Dilating further, Mr. Pracha has also drawn attention of the Court to the provisions of Section 3(1)(w) and Section 3(2)(va) of the Act to submit that the legislature intended compliance of Section 15A(10) in respect of sexual offences under the Act, as well as, the IPC involving female victims whose identity, under the law, is required to be protected.

17. He thus, urges that Section 15A(10) makes abundantly clear that the video recording the proceedings is mandatory.

18. I have heard the learned counsel for the complainant, learned APP for the State as well as the learned counsel for the accused.

19. Undisputedly, the deceased as well as complainant, who is father of the deceased, were/are from the Scheduled Caste community. Further, some of the offences which have been invoked in the FIR are also under the Act. It is in this factual backdrop that the moot question as noted in opening part of the judgment assumes relevance. To be noted that after hearing arguments of both sides, the judgment was reserved by this Court only confined to the said question.

20. To find an answer to above question that still looms large, it needs to be noticed that preamble of the Act provides that it was enacted to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for special courts and the exclusive special courts for the trial of such offences and for the relief and rehabilitation and the victims of such offences and for matters connected therewith or incidental thereto.



21. Later, taking into account that the atrocities against the members of the Scheduled Castes and Scheduled Tribes have continued at a disturbing level and the existing provisions of the Act were found to be inadequate to deal with the same, the legislature amended the Act in the year 2016. By virtue of said amendment, Section 14 and 15 were substituted whereas new Section 14A was inserted in Chapter IV. Likewise, a new Chapter IVA was introduced which contains Section 15A.

22. It is apposite at this stage to refer to relevant extract from the Statement of Objects and Reasons of the Amending Act of 2016, which reads as under:

“Statement of Objects and Reasons. - The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was enacted with a view to prevent the commission of offences of atrocities against the members of the Scheduled Castes and Scheduled Tribes and to establish Special Courts for the trial of such offences and for providing relief and rehabilitation of the victims of such offences.

2. Despite the deterrent provisions made in the Act, atrocities against the members of the Scheduled Castes and Scheduled Tribes continue at a disturbing level. Adequate justice also remains difficult for a majority of the victims and the witnesses, as they face hurdles virtually at every stage of the legal process. The implementation of the Act suffers due to (a) procedural hurdles such as non-registration of cases; (b) procedural delays in investigation, arrests and filing of charge-sheets; and (c) delays in trial and low conviction rate.

3. It is also observed that certain forms of atrocities, known to be occurring in recent years, are not covered by the Act. Several offences under the Indian Penal Code, other than those already covered under section 3(2)(v) of the Act, are also committed frequently against the members of the Scheduled Castes and the Scheduled Tribes on the ground that the victim was a member of a



Scheduled Caste and Scheduled Tribe. It is also felt that the public accountability provisions under the Act need to be outlined in greater detail and strengthened.

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5. It is, therefore, proposed to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 which, inter alia, provides the following, namely:—

(a) xxxxx

xxxxx xxxxx xxxxx xxxxx

(h) to insert a new Chapter IVA relating to “Rights of Victims and Witnesses” to impose certain duties and responsibilities upon the State for making necessary arrangements for protection of victims, their dependents and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.”

(emphasis supplied)

23. Reading of sub-section (3)¹ of Section 15A of the Act shows that it has been made obligatory on part of the Court, as well as, the Special Public Prosecutor / State Government to put the victim to notice about the proceedings under the Act including any bail proceeding. Likewise, under sub-section (5)² of Section 15A, the victim or his dependent also have a right to be heard at any proceedings under the Act in respect of bail. Clearly,

¹15(3) A victim or his dependent shall have the **right to reasonable, accurate, and timely notice** of any Court proceeding **including any bail proceeding** and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

²15(5) A victim or his dependent shall be entitled **to be heard at any proceeding under this Act in respect of bail**, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.



the expression proceeding(s) in the above provisions has been used in the context of bail. If the provision of sub-section (10)³ of Section 15A of the Act is seen in this backdrop, the reference to the expression ‘proceedings’ therein will undoubtedly include the ‘proceedings’ in respect of bail, both before the learned Special Court and the High Court, whether under Section 14A of the Act or under Section 439 CrPC. Further, use of prefix ‘all’ before the expression “*proceedings*” shows the intention of the legislature to give widest amplitude to the applicability of sub-section (10) of Section 15A. The expression ‘*All proceedings*’ is followed by the expression “*relating to offences under the Act*”, which also emphasize the intention of the legislature to give wider applicability to the provisions of Section 15A(10). The expressions “in relation to”, “pertaining to” and “concerning with” have been held to be the expressions of expansion and not of contraction.⁴

24. The Statement of Objects and Reasons of the Amending Act also makes abundantly clear that amendment to the Act was brought about as it was felt that the public accountability provisions under the Act need to be outlined in greater detail and strengthened. At the same time certain duties and responsibilities have been imposed upon the State for making necessary arrangements for protection of victims, their dependants and witnesses. Clearly, the newly introduced Chapter IVA and Section 15A have been enacted for the benefit of the victims, their dependants and witnesses belonging to the Scheduled Castes and Scheduled Tribes, therefore, it is a social piece of legislation and its provisions have to be liberally and

³15(10) **All proceedings relating to offences under this Act** shall be video recorded.

⁴ [Ref. Doypack Systems (P) Ltd. Vs. Union of India, (1988) 2 SCC 299].



meaningfully construed so as to advance the objects of the Act, as well as, the cause of public at large. A reference in this regard may be had to the decision in *UPSEB vs. Shiv Mohan Singh, (2004) 8 SCC 402*.

25. Besides, it is a settled rule of interpretation that if the language of a statutory provision is unambiguous, it is to be interpreted according to the plain meaning of the said statutory provision. In the present case, the language of the provision of Section 15A(10) is clear and admits of no ambiguity, thus, expression “*all proceedings relating to the offences under this Act*” will include the bail proceedings before the Special Court, as well as, before the High Court in relation to the offences under the Act.

26. I am supported in my view by a decision of the High Court of Bombay in *Dr. Hema Suresh Ahuja (supra)*. In the said decision, the Division Bench of Bombay High Court was requested to answer the following questions referred by the learned Single Judge, in view of the conflicting opinion of two co-ordinate benches:

“(1) Whether proceeding under 15A(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 would amount to a judicial proceeding as contemplated under section 2(i) of the Criminal Procedure Code, 1973?

(2) Whether it would be necessary to video record any proceeding relating to the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, especially when the proceedings are held in open court, as contemplated under section 327 of the Criminal Procedure Code, 1973 and what would be the objective to be achieved?

(3) Whether hearing of a bail application under section 14A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is a judicial proceeding as contemplated under section 15A of the said Act?



(4) *Whether section 15A (10) of the said Act could be implemented in the absence of rules framed under the Act or formulation of a scheme for implementation?”*

27. In the light of objects and reasons of the Amending Act and the language employed in Section 15A(10) of the Act, the Division Bench of the High Court of Bombay observed as under:

*“23. For deciphering the true purport of Chapter IV-A, the statement of Objects and Reasons of the Amending Act 1 of 2016 mentions that it was felt that the public accountability provisions under the Act need to be outlined in greater detail and strengthened. If the provisions in Section 15-A under Chapter IV-A are read in the light of the Objects and Reasons of the Amending Act, they clearly indicate that all these provisions are made to achieve that particular object besides achieving other objects of the Amending Act. **The video recording of the proceedings relating to the offences under the Atrocities Act would certainly ensure public accountability in respect of those proceedings. This will ensure that victims and witnesses have adequate briefing on the case and preparation for trial. The information would be available to the organizations and individuals who are providing legal aid to the victim and their dependents. Under Section 15-A(12), it is the right of the victims of atrocity or their dependents to take assistance from the Non-Government Organizations, social workers or Advocates. In many cases, the victims may not be fully aware of the legal procedures or their implications and, thus, in that case the video recording would facilitate all those who can help the victim to understand the nature of proceedings and details of the facts and the legal aspects of those cases. Thus, sub-section (10) of Section 15-A of the Atrocities Act does not operate in isolation but it encompasses the other provisions and it facilitates their effective implementation.***

24. Section 20 of the Atrocities Act provides that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of



such law. The video recording of all the proceedings are specifically provided under this Act. This, being a special procedure, has to be followed irrespective of any other procedure provided under any other law.

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41. In these circumstances, we are also inclined to hold that Section 15-A(10) of the Atrocities Act is mandatory and not directory.”

(emphasis supplied)

28. A similar view has been taken by the High Court of Kerala in *Nowfal (supra)*. In the said case, during the proceedings of bail a request was made by the prosecution to video record the proceedings before the Special Court, which was rejected by the Special Court. However, on petition being preferred by the State, the High Court observed thus:

“8. The SC/ST Act has been enacted by the Parliament to effectuate a salutary public purpose of achieving the fulfilment of constitutional rights of the Scheduled Castes and Scheduled Tribes. S.15A which comes under Chapter IVA of the SC/ST Act titled “Rights of Victims and Witnesses”, was introduced by way of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, which came into effect on 26th January, 2016. The statement of objects and reasons that accompanied the insertion of Chapter IVA reads as follows:

“(h) to insert a new Chapter IVA relating to “Rights of Victims and Witnesses” to impose certain duties and responsibilities upon the State for making necessary arrangements for protection of victims, their dependents and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence”.

9. S.15A of the SC/ST Act contains important provisions that safeguards the rights of the victims of caste based atrocities and witnesses. It makes sure that the victims of atrocities are treated



with fairness, respect and dignity. Sub-section (10) of S.15A specifically says that all proceedings relating to the offences under this Act shall be video recorded. It comes under the Chapter “Rights of the Victims and Witnesses”. Thus, the term “all the proceedings” found in Sub-section (10) includes court proceedings as well. Sub-section (10) of S.15A of the SC/ST Act confers statutory right on the victim to get all the proceedings relating to the offences under the Act to be video recorded. The rejection of the request of the victim/prosecution to video-record the court proceedings would go against the legislative mandate which specifies the rights of the victim and witnesses.”

(emphasis supplied)

29. Now advertent to the submission that the proceedings in relation to sexual assault under IPC and the POCSO Act ought not to be recorded to protect the identity of the victim it may be noted that Section 228A of IPC provides punishment for the act of disclosing the identity of the victim of certain offences like Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E. Likewise, Section 23 of the POCSO Act also emphasizes on safeguarding the identity of the child victim who has been sexually abused. Incidentally, Section 15A(10) while providing that all proceedings under the Act shall be video recorded makes no reference to the dissemination of such recording to anyone, which means that the recording is to be preserved for the usage of Court. If at all such recording is to be provided to the victim, his/her advocate or to the Non-Government Organisations, social workers for the purpose of their use in the proceedings under the Act, it need not be given unless specifically ordered by the Court.

30. Thus, the identity and anonymity of the victim in terms of Section 228A of IPC and Section 23 of the POCSO Act can be safeguarded and ensured while video recording the bail proceedings under Section 15A(10)



thus, amply clear that the legislature intended compliance of Section 15A(10) in respect of sexual offences committed under the Act as well as under IPC involving female victims whose identity, under the law, is required to be protected.

32. Clearly, there is no inconsistency between the provisions of recording of the bail proceedings to protect the rights of the victims under Section 15A(10) of the Act on one hand and Section 228A of IPC and Section 23 of the POCSO Act on the other hand.

33. This view is fortified by a decision of the High Court of Kerala in *Nowfal (supra)* wherein it has been held that even in case of sexual assault of a victim under the Act, the anonymity of the victim can be adequately protected and safeguarded during the video recording under Section 15A (10) of the Act by employing strategies like giving dummy names to the victims, face masking or pixelation of face etc. Moreover, the video recording will be maintained exclusively for usage by the Courts. The relevant extract from the decision reads thus:

“10. One of the reasons shown by the Court below to reject the application is that since the offences alleged involve Section 376 of IPC as well, the trial has to be conducted in camera. The Court has also raised security concerns stating that there are no adequate facilities at the court for keeping such records and, thus, there is a possibility of leaking out the same.”

11. Sub-section (2) of S.327 of Cr.P.C, which provides that trial of rape or an offence u/s 376 of IPC shall be conducted in camera, is intended to protect the anonymity of the victim. Subsection (10) of S.15A is also intended to protect the interest of the victim. As such, if a victim makes a request to video-record the court proceedings relating to the offences under SC/ST Act invoking Sub-section (10) of Section 15A, it



cannot be turned down on the ground that the offences charged against the accused involve sexual offences fall under Section 327(2) of Cr.P.C. as well. The anonymity of the victim in such cases can be adequately protected and safeguarded in the recordings via dummy names, face masking or pixelation as and when directed by the Court. The recording shall be maintained for usage by the Court and the appellate Court and access to the recording need not be given to the victim or the accused unless specifically ordered by the Court.”

(emphasis supplied)

34. The upshot of the above discussion is that the provisions of Section 15A(10) of the Act are mandatory and the present bail proceedings will have to be video recorded.
35. It is, however, clarified that this judgment will not affect the cases in which proceedings in terms of Section 15A(10) of the Act have not been video recorded and it will take effect prospectively.
36. List the bail application before the Roster Bench on 04.09.2024.

VIKAS MAHAJAN, J.

AUGUST 23, 2024
N.S. ASWAL