

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 305 OF 2020

(Jyoti alias Jaya w/o Kisan Gawande vs. The State of Maharashtra thr. P.S.O., P.S. Borgaon Manju, Tah. & District Akola)

AND

CRIMINAL APPLICATION (BA) NO. 304 OF 2020

(Nilesh alias Nitin s/o Duryodhan Umbarkar vs. The State of Maharashtra thr. P.S.O., P.S., Borgaon Manju, Tah. and District - Akola)

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

Court's or Judge's orders.

Shri S.V. Sirpurkar, Advocate for the applicants.
Shri J.Y. Gurde, APP for the respondents / State.

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CORAM : PUSHPA V. GANEDIWALA, J.
MAY 12, 2020.

Heard.

Perused the application and reply.

The applicant - Jyoti alias Jaya w/o Kisan Gawande is the mother of the prosecutrix while the applicant - Nilesh alias Nitin s/o Duryodhan Umbarkar is the so called husband of the prosecutrix.

It is alleged that prosecutrix aged about 14 years was staying with her father. Her mother was staying separately and the prosecutrix used to visit her mother intermittently.

It is further alleged that the mother of the prosecutrix called prosecutrix at her place on the

pretext that her grand-mother was not keeping well and she forcibly arranged her marriage with co-accused Nilesh alias Nitin s/o Duryodhan Umbarkar. He is aged about 27 years. After her marriage with Nilesh, prosecutrix started staying at his house with his parents. It is further alleged that the mother of Nilesh deliberately left Nilesh and prosecutrix alone during night so that Nilesh could conveniently establish physical relations with prosecutrix.

It is further the case of the prosecution that Nilesh established forcible physical relations with the prosecutrix which she could not bear and immediately came to her mother's place and after two months, lodged the report against the present applicants at Police Station Borgaon Manju, District Akola, vide Crime No. 208/2019 for the offence punishable under Sections 376, 376(3), 342 read with Section 34 of the Indian Penal Code and Sub Sections 4 and 6 of the POCSO Act and Sub Section 6 of the Prohibition of Child Marriage Act, 2006.

Shri Sirpurkar, learned Counsel for the applicant submitted that the investigation in this crime is completed and charge-sheet has also been filed.

I have considered the submissions made on behalf of both the sides.

At the outset, the present applicants are in jail since around one year. The prosecution could not point out any criminal antecedent against the applicants. It is also not the case of the prosecution that if the applicants are released on bail, they would exploit the bail.

A perusal of the statement of the prosecutrix itself shows that the applicant – Nilesh did not pounce upon her immediately after the marriage. Initially, the prosecutrix used to sleep with the mother of Nilesh.

As far as the applicant – Jyoti alias Jaya w/o Kisan Gawande, the mother of the prosecutrix is concerned, the role attributed to her is that she has arranged marriage of her minor daughter with the accused – Nilesh.

Considering the period for which the applicants were in jail and considering the nature of the allegations and the fact that the investigation is completed and the charge-sheet is filed, I am inclined to release the applicants on bail on their executing Personal Bond in the sum of Rs.15,000/- (Rs. Fifteen thousand only) each with one surety in the like amount.

The applicants i.e. Jyoti alias Jaya w/o Kisan Gawande and Nilesh alias Nitin s/o Duryodhan Umbarkar shall not issue threats to the prosecutrix or

tamper with the evidence.

The applications are disposed of.

JUDGE

D.S. Baldwa