

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

CRIMINAL APPLICATION (BA) NO. 92 OF 2021

(Mangesh s/o Niranjana Parvatkar Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri D.S. Khushalani, Advocate for the applicant.
Shri Amit Chutke, A.P.P. for the non-applicant /State.

CORAM: MRS. SWAPNA JOSHI, J.

DATED : 09th MARCH, 2021.

Heard Shri D.S. Khushalani, the learned counsel for the applicant and Shri Amit Chutke, the learned APP for the non-applicant/State.

2. By this application, the applicant is seeking regular bail in Crime No. 201/2020 registered at Police Station Khallar, District Amravati for the offence punishable under Sections 363 & 376 (2)(n) of the Indian Penal Code and Section 4 of the Protection of Children From Sexual Offences Act, 2012 (for short "POCSO" Act). Perused the case papers.

3. The prosecution case in brief is that there was love affair between the victim, aged about 17 years and the applicant, who was aged about 21 years at the relevant time. They were friendly with each other. In August 2020, they had sexual intercourse for the first time on the bank of river, and thereafter also, they used to meet at that place.

4. On 15.10.2020, they both left their Village

Mocharda, Taluqa Daryapur, District Amravati and proceeded to Rajgad (MP), where the sister of the victim was residing. They stayed there in her house. During the stay of the victim at her sister's house, she realized that she was carrying pregnancy. In the meantime, the father of the victim lodged a missing report at Khallar Police Station. On 27.10.2020, the Police came to that place and took them from Rajgad (MP) to Khallar Police Station.

5. Shri Khushalani, the learned counsel for the applicant contended that, there was love affair between the victim and the applicant. The victim was carrying pregnancy of eight weeks, which is supported by the medical evidence. It is submitted that the applicant be released on bail, by imposing stringent conditions.

6. Shri Chutke, the learned APP vehemently opposed the bail application.

7. After hearing both the sides and on a perusal of the charge-sheet as well as the reply tendered by the learned APP, it is noticed that the victim girl was aged about 17 years, on the verge of attaining majority and having proper understanding. The victim was having love affair with the applicant and had consensual sex. Thereafter, the victim alongwith the applicant proceeded to her sister's place, at Rajgad (MP) and stayed there. Only after the missing report was lodged by the father of the victim, the victim and applicant were brought from Rajgad (MP) to Khallar Police Station.

8. Significantly, the victim was on the verge of attaining majority having understanding as to what is good and what is bad for her. She had consensual sex with the applicant. The statement of the sister (Komal Rahul Gawai) of the victim indicates that the victim is married with the applicant.

9. Considering the manner in which the incident had taken place and also considering that the investigation is over and the charge-sheet has been filed in the present case, the applicant is entitled for bail, on imposing certain conditions. Hence, the following order.

ORDER

- i. The Criminal Application is **allowed**.
- ii. The Applicant – Mangesh s/o Niranjan Parvatkar, be released on bail in Crime No. 201/2020 registered at Police Station Khallar, District Amravati for the offence punishable under Sections 363 & 376 (2)(n) of the Indian Penal Code & Section 4 of the Protection of Children From Sexual Offences Act, 2012, on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- iii. The Applicant shall not tamper with the prosecution witnesses in any manner.

- iv. The Applicant shall attend the concerned police station as and when required by the investigating agency, till the commencement of trial.
- v. The Applicant shall attend the dates of hearing regularly in the trial court.

10. Any observations made in this order are only for granting bail to the applicant and it shall not come in the way of the trial Court, during trial.

11. Criminal Application stands **disposed** of accordingly.

(MRS. SWAPNA JOSHI, J.)