

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

Criminal Application (BA) No. 951 of 2022

Prakash S/o Moghabhai Vankar and another

Versus

The State of Maharashtra, through Police Station Officer, Police Station,
MIDC, Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S.Shukla, Advocate a/w Shri Jivan Shukla,
Advocate for the applicant.

Shri V.A. Thakare, APP for the State / Non-applicant
Ms. D.V.Sapkal, Advocate for the non-applicant no.2.

CORAM : ANIL S. KILOR, J.

DATED : 30th August, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 941 of 2021 registered with Police Station MIDC, Dist. Nagpur for the offence punishable under Section 363 of Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is no way involved in the present crime and he has been falsely implicated in the alleged offence. It is submitted that in a statement recorded under Section 164 of Code of Criminal Procedure,

nothing has been disclosed and no role is attributed against the applicant. It is further argued that at the time of marriage, the applicant was not knowing that the victim is minor. It is submitted that the applicant is the person, who after knowing that the victim is minor, called her parents.

3. He lastly submits that as the investigation is completed and the chargesheet has been filed, further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.

4. On the other hand, learned Additional Public Prosecutor strongly opposed the application and submits that there is sufficient incriminating material to show the involvement of the applicant in the alleged offence.

5. Learned Additional Public Prosecutor has pointed out from the statement of sister of the applicant that the day on which the applicant met with the victim on the same day, the marriage was performed by the applicant with the victim. Thus, learned Additional Public Prosecutor submits that considering the nature of offence, this Court may not grant bail to the applicant.

6. Ms. Sapkale, learned counsel for the non-applicant no.2 reiterates the submission of the learned Additional Public Prosecutor, in addition to this she

submits that without verifying the age of the applicant, the applicant no.1 had performed the marriage with the victim. She submits that victim made aware to the applicant no.1 that she is minor, despite the same he committed sexual intercourse. Accordingly, he prays for rejection of the present application.

7. I have perused the chargesheet and the application.

8. From the chargesheet, it can be seen that the medical report of the victim support the case of the prosecution. Moreover, *prima facie*, it appears that on the same day when he met with the victim, he performed the marriage and committed sexual intercourse without verifying the age of the victim. Thus, from the record it appears that even the statement of the sister of the applicant is sufficient to show that without verifying the age of the victim or without asking for any age proof and other relevant documents, he performed the marriage.

9. Furthermore, there is sufficient evidence to show that the applicant no.1 has paid the amount of Rs.50,000/- to the mediator i.e. applicant no.2. This fact of payment of Rs.51,000/- to the mediator by the applicant to compel the victim to perform marriage with

the applicant, is also sufficient to *prima facie* show the involvement of the applicant in the alleged offence.

10. Thus, considering the nature of offence and severity of punishment which conviction will entail, I am of the opinion that the applicant is not entitled for grant of bail. Accordingly, I pass the following order.

- i. Criminal application is rejected.
- ii. Fees of Ms. Sapkal, learned appointed Advocate be quantified as per Rules.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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by
SACHINDANAND
K NAIR
Date: 2022.09.06
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