

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

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CRIMINAL APPLICATION (BA) NO. 112/2023

Dnyaneshwar @ Vilas s/o Suresh Dandare
(in Jail)

.. Applicant

versus

The State of Maharashtra

Th: Its P.S. Jalalkheda, Tq.Narkhed, Dist.Nagpur.

.. Respondent

.....
Mr. V.S.Bhoyar, Advocate for the applicant

Mr. Nitin Rode, APP for Respondent
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CORAM: ANIL L. PANSARE, J.

DATED : 23rd February, 2023.

PC:

Heard learned counsel for both the sides.

2. This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 20.09.2022 in Crime No.357/2022 registered at Police Station Jalalkheda Tq.Narkhed Dist. Nagpur, for the offences punishable under Sections 376, 376(2)(n) of the Indian Penal Code.

3. Briefly stated, the prosecution case is that the victim was 18 years old at the relevant time. Her statement recorded under section 164 of the Code, indicates that she was minor, she was sexually exploited by one Suraj Natthuji Nadekar, some times in April to June 2022. As a result, the victim got pregnant in September. She took tablets to abort the foetus some times in September, 2022. In the meantime, in August, 2022, the applicant met her. According to the victim, the applicant

sought sexual favour to help her. The victim claims that she had no money to purchase the pregnancy kit and, therefore, sought help from the applicant who, in turn, sought sexual favour and on 25th August 2022, the applicant has indulged in sexual intercourse without her consent. On 16th September, 2022, the applicant gave her five tablets to abort the foetus. The victim consumed the same and accordingly the pregnancy was aborted.

4. When enquired as to what was the cost of those five tablets, the learned APP submits that the investigation was not conducted on that point. Ordinarily, the tablets should not be costly and in absence of any evidence to that effect, it is difficult to believe that the tablets were so costly that the victim could not purchase it of her own and she was required financial assistance and further that she consented for sexual favour only to get the tablets from the applicant.

5. The learned counsel for the applicant submits that the victim is now married to Suraj Nadekar and is living a blissful marital life.

6. The applicant is behind the bars since 20th August, 2022. The charge-sheet has been filed. The charge has not yet been framed. It will take some time to commence and conclude the trial. When enquired, learned Advocate for the applicant states that there are no criminal antecedents against the applicant. He is residing at village Mohad Tq. Narkhed, Dist.Nagpur, for years together.

7. In view of the above and considering the nature of evidence against the applicant, I am of the view that no fruitful purpose would be

served by keeping him behind the bars. The interest of prosecution can be protected by putting the applicant to appropriate terms.

8. Needless to mention, that the observations made hereinabove are for the purpose of deciding this Application only and the trial Court shall not get influenced by it.

9. Hence, the following order :

ORDER

- (i) The Application is allowed.
- (ii) The applicant-Dnyaneshwar @ Vilas Suresh Dandare, be released on bail, in Crime No. 357/2022 registered with Police Station Jalalkhed, Tq.Narkhed Dist. Nagpur, for the offences punishable under Sections 376 and 376 (2)(n) of the Indian Penal Code, on he furnishing P.R. bond in the sum of Rs. 25,000/- with one surety in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating officer and the Court concerned, and shall not change the mobile number and residence till the final disposal of the case.
- (iv) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer.
- (vi) The applicant shall maintain law and order.

(vii) In case of breach of any condition, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The Application is disposed of in the above terms.

[ANIL L. PANSARE, J.]

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