

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

CRIMINAL APPLICATION (BA) NO. 166/2023

Vikas alias Golu Pandit Rathod and anr. .vs. State of Maharashtra through PSO P.S.
Digras, Dist. Yavatmal and another.

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

Court's or Judge's orders

Mr. S. G. Varshani, Advocate for applicants.
Mr. A. M. Kadukar, A.P.P for non applicant no.1.- State.
Mr. A. Zade, Advocate for non applicant no.2.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 3, 2023.

This is an application under Section 439 of the Code of Criminal, 1973. The applicant no.1 has been arrested on 08.11.2022 and applicant no.2 has been arrested on 23.11.2023 in Crime No.835/2022, registered with Police Station, Digras, District Yavatmal for the offences punishable under Sections 376(2)(n), 376C, 376D, 376DA, 323, 504, 506, 109 of the Indian Penal Code, 1860 and Sections 6 and 12 of the Protection of Children From Sexual Offences Act, 2012.

2. After having heard both the sides and having gone through the material placed before me, it appears that non applicant no.2 was 16 years old and accused no.1 was 25 years old. Both were in a relationship and indulged into sexual activity. Accused no.2 is friend of accused no.1 and is said to have abetted the crime.

3. Learned counsel for the applicants, joined by learned counsel for non applicant no.2, submit that families of both the sides have decided to perform marriage of applicant no.1 and non applicant no.2, once non applicant no.2 becomes major.

Learned counsel for the non applicant no.2 accordingly would support the applicants.

4. Learned A.P.P. however submits that non applicant no.2 is minor and consent is insignificant. True it is that the consent is insignificant but considering the fact that the non applicant no.2 has attained sexual majority and that applicant no.1 and non applicant no.2 are in relationship and their families now have decided to approve the relationship, the applicants have, at least, made out a case for releasing them on bail.

5. Learned counsel for the applicants submits that the applicants have no criminal antecedents. Charge-sheet is not yet filed. In view of above and considering the developments, no fruitful purpose will be served by keeping the applicants behind the bars.

6. The observations made in this order are prima facie in nature and are made for deciding the present application only. The trial Court shall not get influenced by the observations made in this order.

7. Resultantly, following order is passed.

ORDER

(i) The application is allowed.

(ii) Applicant no.1 – Vikas alias Golu Pandit Rathod and applicant no.2 – Nitesh Pandurang Rathod, be released on bail in Crime No.835/2022, registered with Police Station, Digras, District Yavatmal for the offence punishable under Sections 376(2)(n), 376C, 376D, 376DA, 323, 504, 506, 109 of the Indian Penal Code, 1860 and Sections 6 and 12 of the Protection of Children From Sexual Offences Act, 2012 on they executing

P.R. Bond in the sum of Rs.25,000/- each with one surety each in the like amount.

(iv) The applicants shall, at the time of execution of bond, furnish their addresses and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.

(v) The applicants 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/her from disclosing such facts to the Court or any Police Officer.

(vi) The applicants shall not obstruct or hamper the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.

(vii) The applicants shall maintain law and order.

(viii) In case of breach of any conditions, 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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