

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

CRIMINAL APPLICATION (BA) NO. 280/2023

SAGAR @ NIKKI INDRAPAL VERMA
VS
STATE OF MAH. THR. PSO PS, BALLARPUR, DIST. CHANDRAPUR
AND ANOTHER

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

Court's or Judge's Order

Mr Anil Dhawas, counsel for the applicant.

Mr A.M. Kadukar, APP for the non-applicant No.1/State.

Ms Falguni Badani, counsel for the non-applicant No.2. (appointed)

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/06/2023.

1. The present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure in connection with crime No. 1057/2022 registered with Police Station Ballarpur, District Chandrapur for the offences punishable under Section 354, 354(A) (1) (2), 506 of the Indian Penal Code and Section 8 of the POCSO Act. The applicant is arrested on 25/10/2022 since then, he is in jail.

2. The accusation against the present applicant is that on 25/10/2022 when the victim was standing outside the house, the present applicant came on the scooter and took along with him behind the

house of the victim and he disrobed her. At the relevant time, the victim pushed him and ran away from the spot of the incident. On the basis of the said report, the Police have registered the offence.

3. As per the contention of the applicant since the date of his arrest, he is in jail. He is falsely implicated, due to the previous enmity. Now, the investigation is completed and charge-sheet is filed. If he is released on bail, he will abide by all the conditions imposed by this Court.

4. The said application is strongly opposed by the State, on the ground that the applicant, in the past has committed similar types of offences. He is a habitual offender. If he is released on bail, he will tamper with the prosecution and would commit similar types of offence, and hence bail application deserves to be rejected.

5. Heard learned counsel for the applicant. He submitted that due to a trivial dispute between the father of the victim and the accused on the issue of repairing and damaged of the two-wheeler vehicle owned by the accused. He is falsely implicated in the alleged offence. Now, the investigation is completed and charge-sheet is filed. The present applicant is in jail for 8 to 9 months. No purpose will be served by

keeping him behind the bar and prays for releasing the applicant on bail.

6. Per contra, learned APP submitted that considering the provision, offence was registered against the present applicant is of similar type, therefore, application deserves to be rejected.

7. Learned counsel appearing for the victim endorsed the same contention and submitted that the mother of the victim is a widow having three daughters, if the applicant is released on bail, he will definitely tamper with the prosecution evidence and raised the apprehension that there is every likelihood of committing similar types of offence with the victim girl.

8. Heard both the sides. On perusal of the FIR, the allegation against the present applicant is that on the day of the incident i.e. on 25/10/2022, the victim was taken to the accused in the open place behind the house of the victim, and disrobed her. But, at the relevant time, the victim was pushed and ran away from the spot of the incident. As per her allegation, after taking her behind the house, he insisted on her to sit and accordingly, she sat on the floor and sustained the injury. The injury certificate on record shows that she had sustained the injury in the

nature of abrasion on her right forearm and right knee. During the investigation, the investigating officer recorded the relevant statement of the witnesses, and apparently, the investigation appears to be completed. Charge-sheet is already filed before the Special Court. The charge is already framed and the evidence of the victim is yet to be recorded. The record further shows that similar types of two offences are registered against the present applicant, out of which, in one of the matter, he was already acquitted.

09. Considering the allegations against the present applicant and taking into consideration the status of the trial by imposing certain conditions, the application deserves to be allowed. Accordingly, I pass the following order:

- a) The Criminal Application is allowed.
- b) The applicant is released on bail in connection with crime No. 1057/2022 registered with Police Station Ballarpur, District Chandrapur for the offences punishable under Section 354, 354(A) (1) (2), 506 of the Indian Penal Code and Section 8 of the POCSO Act on executing P.R. Bond of Rs. 25,000/- with one solvent surety of like amount.

- c) The applicant shall not enter into the vicinity of Balharsha, Taluka Balharsha, District Chandrapur, till the conclusion of the trial.
- d) 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/her from disclosing such facts to the Court or any Police Officer.
- e) The applicant if found the breach of the above terms and conditions imposed by this Court, the State is at liberty to file an appropriate application for cancellation of bail.

JUDGE