

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

CRIMINAL APPLICATION (BA) NO.361 OF 2023

Suman s/o Sambayya Mudmadigela
Vs.

The State of Maharashtra through Police Station Officer, Sub Police Station, Bamani,
District Gadchiroli 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. B. Trivedi, Advocate for applicant.
Mr. M. J. Khan, APP for respondent No.1/State.
Mr. Anant Ramteke, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/07/2023

1. The present application is for seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.6/2020 registered with Sub. Police Station, Bamani, for the offences punishable under Sections 363, 376, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 4, 6, 8, 12 and 17 of the Protection of Children From Sexual Offences Act, 2012. The applicant is arrested on 22.09.2022 and since then he is behind bar.

2. The crime is registered on the basis of report lodged by the victim girl who is aged about 17 years. As far as the allegation against the present applicant is concerned, he along with co-accused Rajeeta Alluri and Prasad approached to the present victim and took her on

the pretext that they are taking her at Chennur and thereafter, co-accused Prasad has subjected her for sexual assault in the village Mancherial. On the basis of said report, police have registered the crime against the present applicant.

3. As per the contention of the present applicant that he is not concerned with the alleged offence merely because he was along with the co-accused his name is implicated. Now, investigation is completed and charge is filed. No purpose will be served by keeping him behind bar. The recitals of the FIR nowhere discloses that there was any communication between the victim and the present applicant and in any manner he has abetted the co-accused to commit such offence. Now investigation is completed and chargesheet is filed. No purpose will be served by keeping him behind bar. Hence, he be released on bail.

4. The said application is strongly opposed by the State on the ground that the role of the present applicant discloses from the statement of the victim as well as the other witnesses which shows that the present applicant along with the co-accused approached to the victim and took her on the pretext of taking her at Chennur and co-accused subjected her for sexual assault. Thus, there was an abetment at the hands of the present

applicant and therefore, the co-accused has committed the offence.

5. Heard learned Counsel for the applicant and learned APP for the State.

6. Perused the investigation papers. From the investigation papers, it reveals that the applicant along with the co-accused approached and the co-accused took the victim along with him and subjected for sexual assault. As far as the role of the present applicant is concerned, he was along with the co-accused. Now, since the date of arrest he is behind bar. The investigation is completed and chargeheet is filed. Considering the role of the present applicant only allegation against him is that he was along with the co-accused. The investigation papers nowhere reflects that there was any communication between the present applicant and the victim. Thus, there is no direct evidence regarding the abetment at the hands of the present applicant. Considering the investigation is completed and chargesheet is filed, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

(i) The application is allowed.

(ii) The applicant **Suman s/o Sambayya Mudmadigela** is released on bail in Crime No.6/2020 registered with Police Station Bamani,

for the offences punishable under Sections 363, 376, 504 and 506 read with Section 34 of the Indian Penal Code and under Sections 4, 6, 8, 12 and 17 of the Protection of Children From Sexual Offences Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.

(iv) The applicant shall furnish his cell phone number and address with the address proof.

(v) The fees of the learned appointed Counsel for the respondent No.2 be quantified as per the rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate