

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

CRIMINAL APPLICATION (BA) NO.358 OF 2023

Sumedh s/o Rajhans Meshram Vs. State of Maharashtra and another

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

Court's or Judge's orders.

Shri Y. Bage, Advocate for applicant.
Shri I.J. Damle, APP for non-applicant no.1/State.
Ms Kirti Satpute, Advocate for non-applicant no.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 05, 2023.

The present application is under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.757/2022 registered with Police Station, Pulgaon, District Wardha for the offence punishable under Sections 363, 376(3) and 506 of the Indian Penal Code and under Sections 4, 6, 21(1) of the Protection of Children from Sexual Offences Act. The applicant is arrested on 24.08.2022 and since then the applicant is in jail.

2. The crime is registered on the report lodged by the mother of the victim girl on an allegation that on 22.08.2022 at about 8.00 am, when she was at home, she observed that her daughter is not communicating with anybody therefore she enquired with her and her daughter disclosed her that, on 18.08.2022 at about 11.30 am, the present applicant met her outside her school and shown her knife and insisted her to sit in his four-wheeler vehicle and abducted her and took her behind on the school ground and subjected her for sexual

assault in the vehicle itself. On the basis of said report, the police have registered the crime against the present applicant.

3. As per contention of the present applicant, he is falsely implicated in the alleged crime due to the enmity between the two families. He is not at all connected with the alleged crime. Now investigation is completed and charge-sheet is filed. He is in jail since the date of the alleged incident. The allegations leveled against him are not supported with any medical evidence or the scientific evidence. Considering now charge-sheet is filed and trial will take its own time, he be released on bail.

4. The said application is opposed by the State on the ground that the sole statement of the victim is sufficient to connect the present applicant with the alleged offence. At this stage, the statement cannot be disbelieved. It is further contention of the State that the contention of the victim is supported by the medical evidence as during her medical examination her hymen is found to be ruptured and old healed injury is observed. So allegation is supported by the medical evidence. The medical officer further opined that the evidence sexual intercourse cannot be ruled out. Considering the *prima facie* material against the present applicant and the victim is only 13 years of age, if the applicant is released on bail he will tamper with the prosecution evidence and prayed for the rejection of bail.

5. Heard Shri A.M. Jaltare, learned counsel for the applicant. He reiterated the contention and submitted that even considering the investigation material as it is, the trial will take its own time. The applicant is permanent resident of Pulgaon, District Wardha. There are no criminal antecedents against him. The applicant is falsely implicated in the crime due to previous enmity. Now investigation is completed and charge-sheet is filed, no purpose will be served by keeping him behind bar and hence he be released on bail.

6. Learned APP Shri Damle and learned counsel for the non-applicant no.2 Ms Kirti Satpute vehemently submitted that if the applicant is released on bail, there is every likelihood that he will tamper with the prosecution evidence as the victim and applicant are from the same village and prayed for rejection of bail.

7. Having heard both sides and on perusal of the report and statement of the victim, it reveals that the victim was taken by the present applicant in his vehicle. The knife was also recovered at the instance of the present applicant. It further reveals that after the incident the victim attended the school and appeared for the examination. The veracity of her statement is to be tested at the time of trial. At this stage, for considerable period the applicant is in jail. Now investigation is completed and charge-sheet is filed. Admittedly, the trial will take its own time for its decision, only apprehension

raised by the State is that if the applicant is released on bail he will tamper the prosecution evidence. Considering the same, some conditions can be imposed on the applicant.

8. After perusal of the entire investigation paper, admittedly, the scientific evidence is negative. However, the statement of the victim and the medical evidence is supporting the prosecution case. This Court has also considered that there was previous enmity between the two families whether the applicant is falsely implicated or the allegations are genuine one are to be tested during trial. At this stage, further custody of the present applicant is not required and considering the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.
- ii. The applicant – Sumedh s/o Rajhans Meshram be released on bail in connection with Crime No.757/2022 registered with Police Station, Pulgaon, District Wardha for the offence punishable under Sections 363, 376(3) and 506 of the Indian Penal Code and under Sections 4, 6, 21(1) of the Protection of Children from Sexual Offences Act, on he executing PR bond in the sum of ₹25,000/- with one solvent surety in the like amount.

- iii. The applicant shall furnish the cellphone number and address with address proof.
- iv. The applicant shall not enter into vicinity of Pulgaon, District Wardha till conclusion of the trial without prior permission from the Court.
- v. The applicant shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

With this, the application is disposed of.

JUDGE

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