



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

CRIMINAL APPLICATION (BA) NO.409 OF 2023

Pramod @ Ramdas s/o Vikram Solanke and another
Vs.

State of Maharashtra, through Police Station Officer, Police Station, Malkapur City,
District Buldhana and others

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

Court's or Judge's orders

Mr. V. G. Giramkar, Advocate for applicants.
Mr. M. J. Khan, APP for respondent No.1/State.
Ms. Falguni Badani, appointed Advocate for respondent Nos. 2 and 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 19/08/2023

1. Present application is by the applicants for grant of bail under 439 of the Code of Criminal Procedure in connection with Crime No.347/2022 registered with Police Station, Malkapur City, District Buldhana registered under Sections 363, 376, 376(2)(n) of the Indian Penal Code under Section 4 of the Protection of Children From Sexual Offences Act, 2012. Both the applicants are arrested on 06.10.2022 and since then they are in jail.

2. The crime is registered on the basis of report lodged by mother of one of the victim 'Victim A' on an allegation that on 30.08.2022 her daughter left the house on the pretext of attending the nature's call and not returned back. She was kidnapped by some

unknown persons. On the basis of the said report, initially, police have registered the crime, under Section 363 of the Indian Penal Code. During the investigation, the statement of both the victims recorded and it reveals that they are subjected for sexual assault by the present applicants. It further reveals from their statement that there was love affair between 'victim A' and the applicant No.1 and 'victim B' and the applicant No.2. However, the allegation against both the accused/applicants that they have subjected her for sexual assault.

3. As per the contention of the present applicants, applicant No.1 is having love affair with the 'victim A' and the applicant No.2 is having love affair with the 'victim B'. As far as the allegation by the 'victim A' against the applicant No.2 regarding the sexual assault is denied by the applicant No.2 and the allegation by 'victim B' against the applicant No.1 regarding the sexual assault is denied by the applicant No.1. As per their contentions, as they were having love affairs with the victims respectively they left the house and stayed at one place. They have denied the allegations regarding the physical relationship. As per the contentions of the applicants, now investigation is completed and chargesheet is filed. Their further custodial interrogation is not required and in view of that, they be released on bail.

4. The said application is strongly opposed by the State on the ground that the victims are of tender age and have not attained the age of maturity or understanding. The applicants have subjected them for sexual assault. Admittedly, there was no love affair of the victims with both the applicants but by taking disadvantage of their tender age, they are subjected for sexual assault. There is *prima facie* material against the present applicants. The allegation is substantiated by the medical report. In view of that, the application deserves to be rejected.

5. Learned appointed Counsel for the victims also strongly opposed the application on the ground that victim girls are of only 14 years of age and unable to understand the consequences of their act. *Prima facie* case is made out against them, if they are released on bail, they will tamper with the prosecution evidence and prays for rejection of the application.

6. Having heard the learned Counsel for the applicant, learned APP for the State and learned appointed Counsel for the victims. On perusal of the investigation papers especially the statements of the victims show that 'victim A' is having love affair with the applicant No.1 and 'victim B' is having love affair with the applicant No.2. It further reveals that out of the love affair both the victims have left their parents house at

their own. The statements further reveals that the applicant No.2 has subjected the 'victim A' for sexual assault though there is no love affair between them. It is further alleged by the 'victim B' that she was also sexually assaulted by the applicant No.1 and there is no love affair between them. The medical report substantiate the allegations against the present applicants. Considering the recitals of the statements, admittedly, the victims are not up to age of understand. However, out of love affairs they went along with the applicants and there was a physical relationship between them. Now, investigation is completed and chargesheet is filed. Considering the nature of the allegation and the circumstances in which the alleged incident has taken place, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant No.(1) **Pramod @ Ramdas S/o Vikram Solanke** and applicant No.(2) **Shravan S/o Devisingh Bhosale** are released on bail in connection with Crime No.347/2022 registered with Police Station, Malkapur City, District Buldhana, for the offences punishable under Sections 363, 376, 376(2)(n) of the Indian Penal Code under Section 4 of the Protection of Children From Sexual Offences Act, on executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall not enter into the vicinity of APMC, market, till disposal of the trial.

(iv) The applicants shall not induce, threat or promise any witnesses in any manner and shall not communicate in any manner with the victims, till disposal of the trial.

(v) The applicants shall furnish their cell phone numbers and address with the address proof.

(vi) The fees of the learned appointed Counsel for the respondent Nos.2 and 3 be quantified as per the rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)