

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

CRIMINAL APPLICATION (BA) NO.411 OF 2023

Shubham Pritam Dashmer

Vs.

State of Maharashtra, through Police Station Beltaroli, Nagpur 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 R. H. Rawlani, Counsel for applicant.
Shri I. J. Damle, APP for respondent No.1/State.
Ms. Mohini A. Sharma, Advocate (appointed) for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/06/2023

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.219/2022 at Police Station, Beltarodi, Nagpur for the offence punishable under Sections 376(3), 354-D, 506 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The applicant is arrested on 21.05.2022 since then he is in jail.

3. Crime is registered on the basis of report lodged by the victim girl aged about 15 years. As per her allegation, on 18.05.2022 at about 4.30 p.m., she was communicating with her friend by telephonic call. In

another wing there was birthday party and one boy aged about 18 to 20 years contacted her and asked her mobile number and she gave him mobile number. On the same day, at about 6.00 p.m., again she received a phone call of her friend and she went at Somalwada garden to meet her friend. At that time present applicant attempted to call her and inquired with about her whereabouts. She disclosed to him that she is in a Somalwada garden. He came there to meet her by taking disadvantage of the isolated place. He hold her hand and taken her behind D.P road Frozan city Barai Developers and subjected her for forceful sexual assault. Though she shouted for help but being it is isolated place none came for her help and left from the place of spot of incident. On the basis of said report, police have registered the crime against the present applicant. After registration of the crime, victim girl refer to the medical examination. Her medical examination was carried out. Accused/applicant was arrested.

4. As per contention of the applicant there was love affair between him and the victim was a forced by her parents and due to the pressure of parents she filed false report. Now investigation is completed. Charge-sheet is filed. No purpose will be served by keeping him behind bar. As he is in jail since last approximately two years and he is the bread earner of the family, his entire

family is affected. Considering the investigation is completed, he be released on bail.

5. The said application is strongly opposed by the State as well as the respondent No.2 – victim on the ground that if applicant/accused is released on bail, he will tamper with the prosecution evidence.

6. Heard learned Counsel for the applicant. He reiterated the contention and submitted that as there was a love affair between the applicant and victim they both meet and nothing happened beyond that. The applicant has narrated the history to the Medical Officer which also suggest the same. As the love affair of the victim and the applicant was opposed by her parents, this false report is lodged. Now investigation is completed. Trial will takes its own time for final disposal. If the applicant is kept behind bar his entire family will suffer. He will abide by all the conditions imposed by his Court.

7. Per contra, learned APP submitted that if applicant is released on bail there is every apprehension that he will be involved such types of crime as well as he will tamper the prosecution evidence. Hence, bail application be rejected.

8. Heard learned Counsel for the respondent No.2. She endorsed the same contention and prayed for rejection of the bail.

9. Having heard both the sides and on perusal of the investigation papers. The allegation against the present applicant admittedly is of serious nature. It is apparent from the recitals of the FIR that, applicant and the victim girl met on the day of incident and the alleged incident has taken place. The victim girl was medically examined. During her medical examination, the Medical Officer has observed that hymen is ruptured and position of tears is found in 7 O'clock. Therefore, *prima facie* material sufficiently shows that the victim girl was subjected for sexual assault as Medical Officer opined that sexual assault cannot be ruled out. However, considering the nature of offence and investigation is completed, no purpose will be served by keeping present applicant behind bar. Considering the allegation and the nature of evidence only apprehension raised by the State is that if the applicant is released on bail, he will tamper with the prosecution evidence by pressurizing the witnesses, which can be taken care of by imposing certain conditions on the present applicant.

10. In view of the above observations, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

- (i) The application is allowed.
- (ii) Applicant is released on bail in connection with Crime No.219/2022 at Police Station, Beltarodi, Nagpur for the offence punishable under Sections 376(3), 354-D and 506 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the jurisdiction of Beltarodi Police Station till conclusion of the trial.
- (iv) The applicant shall submit his mobile/phone number along with his address with address proof, before the trial Court.
- (v) The applicant shall not induce, threat or pressurize any witnesses in any manner.
- (vi) The applicant shall attend each and every date before the trial Court.

The application is disposed of

(URMILA JOSHI-PHALKE, J.)

Sarkate