

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

CRIMINAL APPLICATION (BA) NO. 421/2023

Purushottam Santosh Dhoke V/s State of Maharashtra 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. S.V.Sirpurkar, counsel for applicant.

Mr. M.J.Khan, APP for the non-applicant No.1.

Ms Kirti Deshpande, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/08/2023.

1. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No. 960/2022 registered with the Digras Police Station, District Yavatmal for the offence punishable under Sections 376, 376(2)(n) of Indian Penal Code, 1860 and Sections 4, 8 and 12 from Protection of Children from Sexual Offences Act. The applicant is arrested on 24/12/2022.

2. The crime appears to be registered on the basis of information given by Dr. Snehal Ashok Randive vide her letter, the victim approached the Government Hospital as she was having continuous bleeding. During enquiry with the victim, it reveals that she was 17 years old and subjected for sexual assault. Due to which, she was pregnant and

therefore, she approached to the Government Hospital. On the basis of said information, police have registered the crime against the present applicant. During the investigation, the investigating officer recorded the statement of the victim, it reveal that the victim was 17 years old, and she got acquaintance with the present applicant, who is from the same village they developed a friendship. The applicant has expressed his feelings to her and thereafter, they started communicating with each other. Prior to three months of the recording of her statement, the present applicant came to her house when she was alone in the house, and subjected her for sexual assault thereafter she was pregnant. The present applicant has provided him with some pills, she consumed the same and therefore, there was some medical emergency as she was having continuous bleeding. Therefore, she approached the Government Hospital and the incident came into the light.

3. As per the contention of the present applicant, there was a love affair between him and the victim. Out of that love affair, they come together. Now, they have decided to marry, however, due to the registration of crime they could not marry. Now, the investigation is completed and charge-sheet is filed,

further custody is not required. In view of that, he be released on bail.

4. The said application is strongly opposed by the State, on the ground that the victim is only 17 years of age and a child within the meaning of Section 2(d) of the Protection from Children from Sexual Offences Act, her consent is not relevant, as far as the ground that applicant is marry with the victim is not sufficient to release him on the bail. In fact, that ground cannot be taken into consideration, and prays for rejection of the application.

5. Heard learned counsel Mr. S.V. Sirpurkar for the applicant and learned APP for the State.

6. Perused the investigation papers. The material collected by the investigating officer, during the investigation, and the statement of the victim reveals that the victim and the applicant developed a love relationship. Out of them, there was a physical relationship between them, which resulted into pregnancy which the victim has carry. It further reveals that after the victim came to know about her pregnancy, she disclosed the fact to the present applicant and the present applicant provided her some pills. She consumed the same pills and she suffered

continuous bleeding therefore, she approached to the Hospital.

7. Moreover, considering the statement of the victim, it reveals that out of a love relationship, they came together and got a physical relationship. Now, the investigation is completed and the charge-sheet is filed. Admittedly, the victim was of the age of understanding and was aware of the consequences of the said Act. However, due to their teen age, they were attracted to each other and had a physical relationship. Considering the peculiar aspects of the case and charge-sheet is already filed, further custody of the present applicant is not required. The prayer of the applicant for grant of bail can be considered.

In view of the above, I proceed to pass following order:

- a. Criminal Application is allowed.
- b. The applicant in connection with Crime No. 960/2022 registered with the Digras Police Station, District Yavatmal for the offence punishable under Sections 376, 376(2)(n) of Indian Penal Code, 1860 and Sections 4, 8, and 12 from Protection of Children from Sexual Offences Act, the applicant be released on bail, executing

P.R. Bond of Rs. 25,000/- with one surety of like amount.

- c. The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.
- d. Fees of the learned appointed counsel be quantified as per Rules.

JUDGE