

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

CRIMINAL APPLICATION (BA) NO.432 OF 2023

Rajesh Gunaji Boriwar

Vs.

State of Maharashtra, through Police Station Officer, Saoner District 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

Mr. S. M. Nafde, Advocate for applicant.

Mr. M. J. Khan, APP for respondent No.1/State.

Mr. A. S. Gadmade, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/08/2023

1. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.16/2023 registered with Police Station, Saoner, District Nagpur for the offences punishable under Section 354-D of the Indian Penal Code and Section 12 of the Protection of Children From Sexual Offences Act, 2012. The applicant is arrested on 22.02.2023.

2. The accusation against the present applicant is that on 16.12.2022 at about 11.00 a.m. when victim had been to answer the nature's call, the present applicant has followed her and uttered the word that he will marry with her and she shall elope with him. On

the basis of the said report, police have registered the crime against the present applicant.

3. As per contention of the present applicant, with the baseless and false allegation, he is falsely implicated in the alleged offence. Now, the investigation is completed. His further custody is not required. The offences are not punishable with imprisonment of more than three years, considering the same, he be released on bail.

4. The said application is strongly opposed by the learned APP for the State as well as the learned Counsel for the respondent No.2/victim on an allegation that initially present applicant was arrested in Crime No.546/2020 for the offence punishable under Sections 376(3) and 506 of the Indian Penal Code and Section 4 of the Protection of Children From Sexual Offences Act. While on the bail, he has subjected the victim for outraged the modesty of the victim and subjected her for sexual harassment. Considering the conduct, the application of the present applicant deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State as well as learned appointed Counsel for the respondent No.2/victim. Perused the investigation papers. As far as

the allegation is concerned, which is to the extent that the present applicant has followed the victim and asked her for marriage. Now, the investigation is completed and chargesheet is filed. Considering the criminal antecedents that he was prosecuted for the offence punishable under Section 376-D of the Indian Penal Code wherein present informant is the victim. Stringent conditions can be imposed on the present applicant by considering the bail application. In view of that, I proceed to pass following order.

- (i) The application is allowed.
- (ii) The applicant **Rajesh Gunaji Boriwar** is released on bail in connection with Crime No.16/2023 registered with Police Station, Saoner, District Nagpur for the offences punishable under Section 354-D of the Indian Penal Code and Section 12 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 in any manner develop any contact with the victim till both the cases are disposed of by the trial Court.
- (iv) The applicant shall not induce, threat or promise any witnesses who are connected with the alleged crime.
- (v) On contravention of any of the conditions, the bail granted to the applicant deserves to be cancelled.

(vi) 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