

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

CRIMINAL APPLICATION (BA) NO.473 OF 2023

Shailesh s/o Tarachand Meshram

Vs.

State of Maharashtra, Through Police Station Officer, MIDC (Bori) 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. G. Karmarkar, Counsel for applicant.
Mr. I. J. Damle, APP for respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 26/06/2023

1. The present application is filed by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure. The applicant is arrested on 04.04.2023.

2. The crime is registered on the basis of report lodged by victim girl on an allegation that when she was studying in 12th Std. she got acquaintance with present applicant. There was friendship between them and thereafter, there was love affair between them. They developed the love relationship from June 2022. On 18.07.2022 when she went at Nagpur in search of job and stayed at her maternal aunt house. The present applicant called her at Butibori. As per her allegation, he took her at one room and subjected her for sexual assault. He also obtained her obscene photographs and

circulated the same on WhatsApp group. On the basis of said report, police have registered the crime against the present applicant.

3. As per contention of the present applicant there was love affair between him and the victim girl. As said love relationship was opposed by the parents of the victim and therefore, this false report is lodged against him. Now investigation is completed. The charge-sheet is filed and his further custody is not required. He further contended that the obscene photographs are not circulated from his mobile phone.

4. Learned APP for the State strongly objected the application on the ground that considering the allegation against the present applicant that he circulated the obscene photographs of the victim on social media. The offence committed by the present applicant is serious in nature and if applicant is released on bail, he will tamper the prosecution evidence and prayed for rejection of bail application.

5. The victim is also served with the notice and she filed her reply. She has no objection to release the present applicant on bail. She has also denied the allegation that her photographs are circulated by the applicant. She submitted that in an anger she has lodged the said complaint.

6. Heard learned Counsel Mr. Karmarkar for the applicant. He reiterated the contention and submitted that out of love affair the present applicant was in contact with the victim girl. In fact, no incident of sexual assault took place. Out of love affair, they attracted towards each other. In fact, the photographs are not circulated from the mobile phone of the applicant. The statements of the witnesses also shows that said photographs were circulated from the Cell phone of the brother of the victim. Thus, *prima facie* case is not made out against the present applicant and prayed for releasing the accused /applicant on bail.

7. The learned APP for the State strongly objected the application on the ground that serious allegations are levelled against the present applicant which is supported by the various statements as well as medical evidence. If the applicant/accused is released on bail, he will tamper the prosecution evidence and prayed for rejection of the application.

8. Having heard of the both sides and on perusal of the investigation papers. The recitals of the FIR itself shows that there was love affairs between the victim and the present applicant. It reveals that out of the love affair, applicant and victim are of young age attracted towards each other and the alleged incident appears to have taken place. As far as the allegation

regarding the circulation of the obscene photographs is concerned, the statements of the witnesses shows that the photographs are not circulated from the mobile phone of the present applicant but it is circulated from the mobile phone of the brother of the victim. The notice of the present application is served on the victim. She retracted from earlier statement and submitted that there was love affair between her and the present applicant and no incident of circulation of the photographs has taken place.

9. Even considering the allegation as it is, it reveals that out of love affair, they came together, attracted towards each other and out of attraction alleged incident has taken place. Considering now the investigation is completed and considering the love affairs between the applicant and the victim, for a considerable period applicant is in jail, no purpose will be served by keeping him behind bar. At the same time, considering the apprehension raised by the State that if applicant is released on bail, he will tamper the prosecution evidence, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

(i) The application is allowed.

(ii) The applicant Shailesh s/o Tarachand Meshram is hereby released on bail in

connection with Crime No.106/2023 registered with Police Station MIDC Bori, Nagpur, for the offence punishable under Sections 354(A), 376, 500, 506 of the Indian Penal Code and Section 67 and 67(a) of the Information Technology Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, promise and threat any witnesses who are connected with the alleged crime.

(iv) The applicant shall attend the trial Court regularly.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate