

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

CRIMINAL APPLICATION (BA) NO.508 OF 2023

Bharat Ganesh Gaygol

Vs.

State of Maharashtra, Through Police Station Officer, Pimpalgaon Raja, District
Buldhana 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. V. B. Bhise, Advocate for applicant.

Mr. S. M. Ghodeswar, APP for respondent No.1/State.

Ms. Falguni Badani, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/08/2023

1. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.50/2023 for the offences punishable under Sections 452, 354, 354-A, 354-D, 363, 365, 366, 368, 344 and 506 of the Indian Penal Code and under Sections 8, 12 and 17 of the Protection of Children From Sexual Offences Act, 2012. The applicant is arrested on 02.03.2023.

2. The accusation against the present applicant is on the basis of statement of the victim. The crime was registered on the basis of report lodged by mother of the victim girl who alleged that on 19.02.2023 when she returned home, she found that victim who is her daughter is not at home. She searched for her but could

not traced her. During investigation, the Investigating Officer has recorded the statement of the victim. From the statement of the victim, it reveals that the role of the present applicant is that when victim and other co-accused came at Shegaon at one Lodge, the present applicant was also present there. Thus, the allegation against the present applicant is that he has abetted and aided the co-accused in committing the offence.

3. As per contention of the present applicant, the only allegation against him is that he was present at the said Lodge i.e. Shyam Lodge where the victim and co-accused came. Besides it, there is no material to show that the present applicant either abetted or aided the co-accused to commit the offence. Now, the investigation is completed and chargesheet is filed. Another co-accused with the similar role is attributed, is already released on bail by the trial Court. In view of that, the present applicant be released on bail.

4. The said application is strongly opposed by the State as well as learned appointed Counsel for the respondent No.2/victim on the ground that there is *prima facie* material against the present applicant to show that he has abetted and instigated the other co-accused and in view of the said abetment the other co-accused kidnapped the victim and subjected her for

sexual harassment. Thus, considering the *prima facie* case, the application deserves to be rejected.

5. Heard learned Counsel Mr. Bhise for the applicant, learned APP Mr. Ghodeswar, for the State and learned appointed Counsel Ms. Badani for the respondent No.2/victim. Perused the investigation papers. From the recitals of the statement of the victim, the only role attributed to the present applicant is that he was present when victim and co-accused came at Shyam Lodge where the alleged incident has taken place. Considering the role attributed to the present applicant and investigation is completed, another co-accused to whom similar role is attributed, is already released on bail. In view of that, the present application is also deserves to be allowed as further custody of the present applicant is not required and no purpose will be served by keeping him behind bar. In view of that, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Bharat Ganesh Gaygol** is released on bail, in Crime No.50/2023 registered with Police Station Pimpalgaon Raja, District Buldhana for the offences punishable under Sections 452, 354, 354-A, 354-D, 363, 365, 366, 368, 344 and 506 of the Indian Penal Code and under Sections 8, 12 and 17 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 remain present on every fixed date before the trial Court.

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

(v) The applicant shall furnish his cell phone number and address with the address proof.

6. The fees of the learned appointed Counsel for the respondent No.2 be quantified as per the rules.

(URMILA JOSHI-PHALKE, J.)

Sarkate