



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

CRIMINAL APPLICATION [BA] NO.524 of 2023

Pravin s/o Ramesh Chapale

.vs.

State of Maharashtra and one

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Mahesh Rai, Advocate for Applicant,
Shri A.M. Kadukar, APP for Non-Applicant No.1-State,
Ms. Falguni Badani, Advocate (Appointed) for Non-Applicant No.2-Victim.
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CORAM : M.W. CHANDWANI, J.

DATE : 04/10/2023.

The applicant is seeking bail in connection with Crime No.3/2023 registered with Police Station, Dhaba for the offence punishable under Sections 363, 376 (1), 506 of the Indian Penal Code read with Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard the learned counsel for the applicant, learned Additional Public Prosecutor for non-applicant no.1-State and the learned counsel for non-applicant no.2-victim.

3. Perusal of charge-sheet reveals that the victim-girl, who was waiting for a bus to return her parental home after college is over, the accused came near the victim and snatched her mobile phone and went away along with her mobile phone, but in the meanwhile, the bus had already left. The applicant forcibly made her to sit on his motorcycle and took her to his relative's house

and where the accused and victim resided. In that said night, the applicant committed the sexual intercourse with the victim-girl, who is minor and was 16 years old then. On the next day, her maternal uncle came there and took the victim. Thereafter, she along with her father went to the Police Station and lodged the report. Therefore, on her complaint, the aforesaid offence came to be registered against the applicant.

4. Perusal of chargesheet further goes to suggest that though the victim has alleged about forcible sexual intercourse by the applicant, however, in her statement under Section 164 of the Code of Criminal Procedure before the learned Magistrate shows entire story, except forcible sexual intercourse by the applicant with her. In the statement under Section 164 of the Code of Criminal Procedure, there is no mention of forcible sexual intercourse by the applicant with the victim-girl. It also appears that the applicant and victim-girl were known to each other. The victim-girl was aged about 16 years old. It also appears that the investigation is completed and the chargesheet has already been filed. There is no likelihood that the applicant will flee away from justice. Considering the statement of the victim-girl recorded under section 164 of the Code of Criminal Procedure, the case is made out for exercising discretion in favour of the applicant on certain terms. Hence the order :

(i) The application is allowed.

(ii) The applicant shall be released on bail on his furnishing P.R. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter within the jurisdiction of Police Station Dhaba where the victim-girl resides, till the conclusion of the trial.

(iv) The applicant shall not threaten or induce the prosecution witnesses and not tamper the prosecution evidence.

(v) The Secretary of the High Court Legal Services Sub-Committee, Nagpur to quantify the fees of the learned appointed counsel for the non-applicant-victim, as per the rules.

(M.W. Chandwani, J.)