

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

CRIMINAL APPLICATION (BA) NO.538/2023

Dallu s/o Rainu Madavi Vs. State of Maharashtra

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

Court's or Judge's orders

Mr. M.L.Vairagade, Advocate(appointed) for applicant.
Mr. A. M. Kadukar, APP for respondent/State.
Ms. Falguni Badani, Advocate (appointed) for respondent no.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/08/2023

1. Present application is filed for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.35/2019 registered under Sections 376(3), 506 of the Indian Penal Code read with Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 ("Act of 2012" for short). The applicant is arrested on 12.10.2019 and since then he is in jail.

2. The accusation against the present applicant is on the basis of the report lodged by victim girl, who is aged about 15 years. The applicant is the relative (sister's husband) maternal uncle of the victim. As per her allegation, on 6.10.2019, she had been to the house of present applicant on the occasion of festival Dussehra on 1.10.2019. The wife of the applicant was not at home. By taking disadvantage of the situation, the applicant pulled her and subjected her sexual assault. On the basis of such report, police have registered crime against the present applicant.

3. As per the contention of the present applicant, he is falsely implicated in the present offence. In fact, no such incident has happened. Since the date of his arrest, the applicant is behind the bars. There is no progress in the trial. Considering the above, the applicant be released on bail.

4. Such application is opposed by the learned APP. He submitted that there is prima facie material against the present applicant. Present applicant by taking disadvantage of the victim alone in the house, subjected her sexual assault and more so, the application is substantiated by medical report. There is prima facie material against the present applicant and prays for rejection of the application.

5. Having heard learned counsel for the applicant, learned APP for State and learned counsel for the respondent no.2 and on perusal of the investigation papers, it reveals that the applicant, who is close relative of the victim, subjected her sexual assault. The application is substantiated by medical report, which shows that the hymen of the victim have been ruptured. There is prima facie material against the present applicant to connect with the alleged offence. In fact, it is apparent that present applicant, who is relative of the victim, has taken disadvantage of loneliness in the house and subjected her sexual assault, who had come to his house to celebrate Dussereha. Thus, the applicant has betrayed the trust of the victim.

6. Considering prima facie case is made out against the present applicant, the present application for grant of bail deserves to be rejected. However, considering that since the date of arrest, the applicant is behind bars, the Trial Court has to expedite the trial. In view of that, I proceed to pass the following order:-

Order

- i. Application is rejected.
- ii. The Trial Court shall expedite the trial and shall dispose of the case within one year from today.
- iii. Fees of the appointed counsel be quantified as per Rules.
- iv. Application is disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)

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