

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

CRIMINAL APPLICATION (BA) NO.562/2023

Satish s/o Gujabrao Wadhve (In Jail) Vs. State of Maharashtra 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. Mahesh Rai, Advocate for applicant.
Mr. S.M.Ghodeswar, APP for respondent/State.
Ms. Mohini Sharma, 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.24/2021 registered with Police Station Seloo, Wardha for offences punishable under Sections 376, 376(2) (n), 376(3) of the Indian Penal Code and under Sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act, 2012. The applicant is arrested on 20.1.2021 and since then, he is in jail.

2. The accusation against the present applicant is on the basis of the report lodged by victim on an allegation that she was introduced to the present applicant of his village. Thereafter present applicant has proposed her by expressing his feelings that he has love and affection for her and thereafter there was physical relationship between them at her house, which resulted into pregnancy. Pregnancy was terminated. However, sample of foetus was obtained and forwarded to the DNA. On the basis of such report, police have registered crime against the present applicant.

3. As per the contention of the present applicant, though the victim is about 15 years but, there was love affair between her and the present applicant and out of love affair, there was physical relationship. Now, investigation is complete and charge-sheet is filed. Hence, the applicant is not required for further investigation purpose.

4. The learned APP has strongly opposed the bail application. It is submitted by the learned APP that the victim is only 15 years of age and her consent is not relevant. There is prima facie material against the present applicant. In view of that, the application deserves to be rejected. Learned counsel appointed for respondent no.2 reiterated the same contention and prays for rejection of the bail application.

5. Having heard learned counsel for the applicant, learned APP for the respondent/State and learned counsel for respondent no.2 and perused the investigation papers. FIR is lodged on the basis of report by the victim. From the recitals of the FIR and statements, it reveals that she was introduced to Satish Wadhwa. Present applicant has proposed her by expressing his feelings and she has consented for the same. Thereafter there was love affairs between them and out of love affair, there was physical relationship, which resulted into pregnancy. Thereafter, pregnancy was terminated. The samples of foetus was obtained. The blood samples of present applicant and victim were sent to DNA examination. DNA report shows that the victim and the present applicant are bi-logical parents of abortus of victim. Thus, prima facie material is on record to show that there was physical relationship between present applicant and victim, who is below 18 years of age. From the recitals of the statement, it reveals that out of love & affection, there seems to be physical relationship in between them, which resulted into pregnancy. Admittedly, they came together

out of the said love & affection. Thus, taking into consideration peculiar facts of the present case and as investigation is already complete and charge-sheet is filed, the application deserves to be allowed. Accordingly, I proceed to pass the following order:-

ORDER

- i. Application is allowed.
- ii. The applicant Satish s/o Gujabrao Wadhave is hereby released on bail on executing PR bond of in the sum of Rs. 25,000/- with one surety in the like amount.
- iii. The applicant shall not induce, threaten or pressurize any witnesses, who are connected with the alleged crime.
- iv. The applicant shall attend proceedings before the Trial Court on every date.
- v. The applicant shall furnish his mobile/phone number, along with his address with address proof, before the trial Court.
- vi. Fees of the appointed counsel be quantified as per Rules.

(URMILA JOSHI-PHALKE, J.)

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Signed By: MUKUND
LAXMANRAO AMBULKAR
Private Secretary

Signing Date: 10.08.2023 19:06