

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

CRIMINAL APPLICATION (BA) NO.601 OF 2023

Chirag Sudhir Khobragade

Vs.

State of Maharashtra, through Police Station Officer, Police Station, Ramnagar,
District Chandrapur 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. D. V. Mahajan, Advocate for applicant.

Mr. A. M. Kadukar, APP for respondent No.1/State.

Ms. Hina Khan, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/07/2023

1. The present application is for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.552/2023 registered with Police Station, Ramnagar, District Chandrapur for the offences punishable under Sections 376(3), 376(2)(n), 323 and 506 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012.

2. The accusation against the present applicant is that there was a love affair between the victim and the present applicant and on the promise of marriage present applicant has subjected her for sexual assault. On the basis of the said report, police have registered the crime

against the present applicant. The applicant is arrested on 25.05.2023.

3. As per the contention of the present applicant, there was love affair between victim and him. She was more than 18 years, at the time of alleged incident and out of love affair they attracted towards each other. In fact, the victim herself has joined his company. However, due to misunderstanding, she has filed report against him. Now, the investigation is completed and chargesheet is filed. His further custody is not required. He be released on bail.

4. The said application is strongly opposed by the State on the ground that victim is 17 years of age and her consent is irrelevant. Though, investigation is completed, and considering the nature of the allegation, application deserves to be rejected.

5. The learned Counsel for the respondent No.2 submitted that victim has filed complaint out of misunderstanding. Now, they are performing marriage, in view of that, she has no objection for releasing the applicant on bail.

6. Having heard both the sides and on perusal of the investigation papers, it reveals that there was love affair between the victim and the present applicant. The

victim is 17 years of age whereas the applicant is 23 years of age. Out of love affair, they attracted towards each other and there appears to be physical relationship between them. As far as the contention of the victim is concerned, she has no objection to release the applicant on bail. It can be taken into consideration at this stage. However, it is apparent from the record that out of love affair the present applicant and victim came together and out of attraction there was physical relationship between them. Now, in various decisions the aspect regarding the physical relationship out of love affair is considered. Admittedly, the general rule considering the gravity of the offence, the discretion is to be used cautiously. However, considering that out of love affair, the present applicant and victim came together and both are of teenage attracted towards each other and therefore, in view of the facts and circumstances, the different considerations are to be taken into consideration. The application of the applicant for grant of bail is to be considered. Admittedly, the investigation papers show that there was love affair between them, but due to some disputes between them, the report came to be filed by the victim. Now, the investigation is completed and chargesheet is filed. In the light of above circumstances, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

- (i) The application is allowed.

(ii) The applicant **Chirag Sudhir Khobragade** is released on bail in Crime No.552/2023 registered with Police Station, Ramnagar, District Chandrapur for the offences punishable under Sections 376(3), 376(2)(n), 323 and 506 of the Indian Penal Code and Sections 4 and 6 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 furnish his cell phone number and address with the address proof.

(URMILA JOSHI-PHALKE, J.)

Sarkate