



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

Criminal Application [BA] No.824 of 2023

Rajatsingh s/o Harbhajansingh Anot

vs.

The State of Maharashtra, through P.S.O., P.S. Jaripatka, Dist. Nagpur & another

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. Anil Mardikar, Senior Advocate assisted by Mr. C.R. Thakur, Advocate
 for the Applicant.*

Mr. A.M. Kadukar, A.P.P. for Non-Applicant No.1/State.

Mr. J.S. Chilotra, Advocate for Non-Applicant No.2/Victim.

CORAM : M.W. CHANDWANI, J.

DATE : 9th OCTOBER, 2023.

The applicant seeks bail in connection with Crime No.289/2023, registered with Police Station Jaripatka, Nagpur, for the offence punishable under Sections 363, 376(2)(f), 376(3), 342 and 506 read with Section 34 of the Indian Penal Code and under Sections 4, 8, 17 and 21 of the Protection of Children From Sexual Offences Act ("POCSO Act" for short).

02] Heard the learned Senior Counsel for the applicant as well as the learned A.P.P. for the State assisted by the learned Counsel for the victim.

03] Perusal of the charge-sheet transpires that since, the victim girl did not return from School on 25/04/2023 as per her routine, the maternal uncle of the victim lodged missing report with Jaripatka Police Station. Later on, it was revealed that co-accused Amit eloped the victim first at Amrutsar, Punjab and thereafter at village Aamb, Himachal Pradesh. On 01/04/2023, Police squad from Nagpur reached there along with the applicant and father of main

accused Amit and brought the victim girl at Nagpur. The main accused Amit was arrested. In the statement of the victim, it was revealed that on 25/04/2023, the main accused took the victim girl for wandering in a Maxi vehicle and thereafter in a OYE Hotel at Nagpur, where physical relations were established between them. The main allegation against the applicant is that he arranged a room at OYE Hotel and also facilitated them to elope. Therefore, offence of abetment under the provisions of the POCSO Act has been lodged against the present applicant.

04] It is contended by the learned Senior Counsel for the applicant that it is the applicant, who was with the Police when the victim was found in Himachal Pradesh and panchnama was drawn there. According to him, the allegation against the applicant is of only facilitating the victim and main accused Amit to elope. It is contended that the victim, a minor girl, was live-in relationship with Amit and there were consensual sexual relations between them. He submits that the applicant is behind the bars since more than three months and the charge-sheet has been filed. He, therefore, prays that the applicant be released on bail.

05] *Per contra*, the learned A.P.P. for the State assisted by the learned Counsel for the victim vehemently submits that the applicant is the main culprit in this crime. It is the applicant, who enticed the victim girl to elope with the main accused Amit. According to them, the applicant is a person, who booked a room at OYE Hotel at Nagpur for them and was present at that time. Therefore, there is a *prima facie* case against the present applicant. Hence, they objected to the bail application.

06] The learned Counsel appearing for the victim has placed reliance on the order of this Court in the case of **Kamruddin Gayasuddin Sheikh vs. The State of Maharashtra**, passed in **Bail Application No.1755 of 2015** on **14/03/2016**, wherein the application of the accused, who abetted the main culprit in the crime, has been rejected.

07] Perusal of the case diary transpires that there are allegations that the applicant has booked a room at OYE Hotel, where the alleged incident of sexual intercourse taken place. As per the statement of the victim, the present applicant was in continuous touch with the main accused. No doubt, there is *prima facie* case against the applicant regarding abetment under the provisions of the POCSO Act, but, the fact remains that the applicant has already been arrested in this crime on 06/05/2023 and since then he is in jail. The main allegation of sexual intercourse is alleged only against co-accused Amit. There is no other allegation against the present applicant except that he facilitated them to elope and booked a room at OYE Hotel. The applicant has no antecedents and he has fixed a place of abode. There is no likelihood that the applicant will flee away from justice.

08] So far as the case of **Kamruddin Sheikh** is concerned, let me state that hardly there is a precedent in bail matters and each case has to be decided on the facts of its own cases. Considering the nature of role assigned to the applicant, a case is made out for exercising discretion in favour of the applicant. Hence, the following order :

- i. The application is allowed.

- ii. Applicant – Rajatsingh Harbhajansingh Anot shall be released on bail in Crime No.289/2023 registered with Police Station Jaripatka, Nagpur on his furnishing a P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent sureties in the like amount, before the trial Court.
- iii. The applicant shall not enter into the area, which comes under the jurisdiction of Police Station Jaripatka, Nagpur.
- iv. The applicant shall not threaten the prosecution witnesses and shall not tamper with the evidence.
- v. The observations made in this order are *prima facie* in nature to the extent of disposing of the bail application. The trial Court shall not get influenced by the said observations during trial.
- vi. The application is disposed of in the above terms.

JUDGE