

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

CRIMINAL APPLICATION (BA) NO. 869 OF 2023

Adesh Devanand Ingle

.Vs.

State of Maharashtra, through PSO, PS Murtizapur District Akola and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr J.B. Gandhi, Advocate for the applicant.

Mrs. Sneha Dhote, APP for State.

Mr. A.N. Darunde, Advocate h/f Ms M.A. Sharma, Advocate (appointed) for
non-applicant No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd NOVEMBER, 2023.

1. By this application, the applicant is seeking bail in Crime bearing No.110 of 2022 registered with Police Station Murtizapur, District Akola for the offences punishable under Sections 376, 376 (2)(n), 376 (3) of the Indian Penal Code, 1860 (for short "IPC") and Sections 4, 6 and 8 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

2. It is prosecution's case that applicant sexually assaulted the victim on the pretext of marriage with her. It is alleged that applicant was aware of age of victim. In spite of this, he sexually assaulted the victim.

3. It is contention of learned counsel for the applicant that applicant has been falsely implicated in this case. The incident happened out of love affair between victim and applicant. At the time of incident, victim was more than 15 years old. The statement of victim under Section 164 of Criminal Procedure Code is recorded. In the said statement, she has stated that the said sexual relations were consensual. Applicant is behind bar more than 1½ years. Investigation is completed and charge-sheet has been filed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant sexually assaulted the victim, who was 15 years old at the time of incident. Consent of victim is immaterial as she was below 18 years of age. Medical report corroborates the statement of victim. Trial has commenced. If applicant is released on bail, he may threaten the victim and prosecution witnesses. Hence requested to reject the application.

5. Learned counsel for the non-applicant No.2 reiterates the submissions of learned APP.

6. I have heard learned counsels of all parties. Perused the first information report and charge-sheet.

7. On perusal of statement of victim recorded under Section 164 of Cr.P.C. it appears that the incident happened out of love affair. She has stated that sexual relations were consensual. This Court is aware that consent is immaterial. At the time of incident, victim was more than 15 years old. This Court (Coram : Mridula Bhatkar, J.) in the case of ***Sunil Mahadev Patil vs. State of Maharashtra [2015 SCC Online Bom 6204]***, has released accused on bail in that matter, wherein victim was 15 years old and incident was happened out of love affair. The ratio laid down in this case is squarely applicable to present case.

8. In view of above, I pass the following order:-

- i) Criminal application is allowed.
- ii) Applicant- **Adesh Devanand Ingle** be released on bail in Crime No.110 of 2022, registered with Police Station Murtizapur, Gramin District: Akola for the offences punishable under Sections 376, 376 (2)(n), 376(3) of the I.P.C. and Sections 4, 6 and 8 of Protection of Children From Sexual Offences (POCSO) Act, on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like

amount.

iii] The applicant shall not in any way tamper with the prosecution evidence.

iv] The applicant shall not pressurize or threaten the prosecution witnesses.

v] The applicant shall co-operate the learned trial Judge in conduct of the trial expeditiously.

7. Fees be paid to Ms Mohini Sharma, learned advocate (appointed) for the non-applicant No.2, as per Rules.

8. The Criminal Application stands **disposed of** accordingly.

(SHIVKUMAR DIGE, J.)