



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

CRIMINAL APPLICATION (BA) NO.1339 OF 2022

Yogesh @ Dyaneshwar Gowardhan Pawar
.Vs.

The State of Maharashtra, Through PSO, PS Loni, Distt. Amravati 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 Parvez Mirza, Adv. With Mr Vijay Hamand, Counsel for the applicant
Ms Sneha Dhote, APP for the State
Mr Akshay Darunde, Adv. h/f. Ms Mohini Sharma, Counsel (appointed) for non-
applicant No.2

CORAM : SHIVKUMAR DIGE, J.
DATE : NOVEMBER 08, 2023

1. By this application, the applicant is seeking bail in Crime No. 86 of 2022 registered with Loni police station, Amravati Gramin, District Amravati for the offences punishable under Sections 376, 376(3), 376(2) (n) and 506 of the Indian Penal Code and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012.

2. It is the prosecution's case that applicant has repeatedly sexually assaulted the victim by giving her threats. Due to said sexual assault she got pregnant. Applicant had promised the victim that he will marry with her. Thereafter, he refused to marry with her.

3. It is the contention of learned counsel for applicant that the incident happened out of love affair between applicant and victim. At the time of incident, the victim was more than 15 years old. The sexual relations between applicant and victim were consensual. Applicant is behind bar for more than 20 months. Investigation is completed. Charge-sheet has been filed. Yet trial has not been commenced. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant had forcefully sexually assaulted the victim on several occasions. Applicant had threatened the victim. Due to his threats victim could not tell about the sexual assault by applicant on her. Due to sexual assault the victim got pregnant. At the time of incident victim was below 18 years of age. Therefore, no question of her consent is arises. There is *prima facie* case against the applicant. If applicant is released on bail he may threaten victim and the prosecution witnesses. Hence, requested to reject the application.

5. Learned counsel for non-applicant No.2 submitted that non-applicant No.2 has no objection to allow the application.

6. I have heard all learned counsel. Perused the FIR and charge-sheet.

7. It appears that at the time of incident victim was more than 15 years old and incident has happened out of love affair between applicant and victim. Investigation is completed. Charge-sheet has been filed. Applicant is behind bar more than 20 months. Yet trial has not been commenced. 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 the victim was 15 years old and incident was happened out of love affair.

8. Considering the above facts, further detention of applicant is not required, Hence, I pass following order.

- i) Criminal application is **allowed**.
- ii) Applicant- Yogesh @ Dyaneshwar Gowardhan Pawar be released on bail in Crime No86 of 2022, registered with Loni Police Station, Amravati Gramin Distt Amravati, 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 attend the trial court on each and every date and co-operate the trial court in expeditious disposal of the trial.

9. Fees be paid to learned appointed Advocate to represent the victim, as per rules.

10. The criminal application stands **disposed of**, accordingly.

(SHIVKUMAR DIGE, J.)

Namrata