



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

CRIMINAL APPLICATION (BA) NO. 955/2023

Pawan Ramkrushna More

V/s

State of Maharashtra, through PSO, PS Digras, Yavatmal and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S. Sheikh, Counsel for the applicant.

Mr. Harshal Futane, APP for the State.

Ms. Naina Dhoke, Counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 30/11/2023.

1. By this application, applicant is seeking bail in connection with Crime No.383/2023 registered with Digras Police Station, District Yavatmal for the offences punishable under 363, 366, 376(2)(a) of the Indian Penal Code and along with Section 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012. The accused is arrested on 17/08/2023.

2. The accusation against the present applicant is on the basis of report lodged by father of the victim girl on an allegation that his daughter aged about 16 years and 10 months is kidnapped by the present applicant on the promise of he marriage. On the basis of the said report, the Police have registered the crime against the present applicant. During the investigation, the investigating officer has visited the

alleged spot of incident, and recorded the various statements. The statement of the victim is also recorded from which it reveals that there was a love affair between the victim and the present applicant, and out of that love affair, she joined the company of the present applicant. Initially she denied any sexual relationship with the applicant, and in subsequent statement, she alleged that present applicant has subjected her for sexual assault. On the basis of her statement, the crime is registered under Section 376 of the Indian Penal Code and under the provision of the Protection of Children from Sexual Offences Act.

3. Learned counsel for the applicant submitted that, as there was a love affair between the victim and the present applicant, Victim at her own joined the company of the present applicant, as far as the allegation regarding sexual assault is concerned, no such incident has occurred. Now investigation is completed and charge-sheet is filed. Present applicant is behind bar since 17/08/2023. No purpose will be served by keeping him behind bar.

4. The said application is strongly opposed by the learned APP as well as the learned counsel for the victim. They both have stated that victim is below 18 years of age and minor, her consent is not relevant.

If applicant released on bail, he will tamper with the prosecution evidence.

5. Having heard learned counsel for the applicant and the learned APP for the State and counsel for the informant. Perused the investigation papers. It reveals from the investigation that initially the offence is registered under Section 363 and 366. During the investigation, statement of victim is recorded wherein, she has admitted about the love relationship between her and the present applicant. The history narrated by her to the medical officer also shows that, out of love affair she joined the company of the present applicant. Admittedly, she is minor below 18 years of age and her consent is not relevant. However, considering that alleged incident has occurred out of love relationship and it is not the case that she was subjected for sexual assault by the present applicant out of lust.

6. Considering that two adolescent who are in love affair came together and left the place is to be considered. The investigation is already completed and charge-sheet is filed, no purpose will be served by keeping the present applicant behind bar. In view of that, present application is allowed. Accordingly, I pass the following order:

- A] The criminal application is allowed.
- B] The applicant - Pawan Ramkrushna More in connection with Crime No.383/2023 registered with Digras Police Station, District Yavatmal for the offences punishable under 363, 366, 376(2)(a) of the Indian Penal Code and along with Section 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 is hereby released on bail on executing PR. bond of Rs. 25,000/- with one solvent surety in the like amount.
- C] The applicant shall attend the concerned Police Station as and when required.
- D] The applicant shall not induce, threat and pressurize any witnesses who are connected with the alleged crime and shall not contact to the victim in any manner till the conclusion of the trial.
- E] The applicant shall furnish his cell phone number and address with the address proof.

Criminal application is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J]