



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

CRIMINAL APPLICATION (BA) NO. 27 OF 2024

Ajay Gangadhar Chauragde

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Goregaon District Gondia 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. V. S. Mishara, Advocate for applicant.

Mr. S. C. Joshi, APP for respondent No.1/State.

Ms. S. K. Phaltankar, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 11/03/2024

1. The applicant is arrested on 15.07.2023 in connection with the Crime No.400/2023 registered with Police Station, Goregaon, District Gondia for the offence punishable under Sections 376(2), 376(2)(n) (i) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act and Section 67(B) of the Information Technology Act.

2. The accusation against the present applicant is on the basis of report lodged by the victim aged about 16 years, on an allegation that when she was studying in 11th Standard she got acquaintance with the present applicant. A friendship was developed between them which resulted into the love affair. Due to the love affair, she was communicated with the present applicant. In absence

of her parents, the applicant was visiting her house and there was a physical relationship between them. When her father came to know about the love affair, she started staying away from the present applicant. On 02.07.2023, she had a quarrel with her brother and therefore, she approached to the present applicant and on 03.07.2023, she again returned home. She specifically stated that on that intervening night of 02.07.2023 to 03.07.2023 there was no physical relationship between them. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that from the recitals of the FIR itself it reveals that out of the love affair, there was a physical relationship between them. It was the victim, who approached the present applicant on the intervening night of 02.07.2023 and 03.07.2023 out of the love affair. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP and learned appointed Counsel for the respondent No.2 strongly opposed the application on the ground that the victim is 16 years age and her consent is not relevant. If the applicant/accused is released on bail, he would tamper with the prosecution evidence. They invited

my attention towards the statement of one Vishal Thakre from which it reveals that present applicant has made the photographs of the victim viral on Instagram account and submitted that not only the victim was subjected for sexual assault, but her photographs were also made viral by the present applicant, which is a serious crime and therefore, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State as well as learned appointed Counsel for the respondent No.2, perused the investigation papers. From the statement of the victim recorded under Section 161 of Cr.P.C. as well as 164 of Cr.P.C. it reveals out of love affair, there was a physical relationship between the present applicant and the victim. The victim is 16 years of age as well as applicant is 23 years of age. Thus, both are of young age and out of the love relationship, there was a physical relationship between them. As far as the photographs and the allegation regarding the applicant made it viral is concerned, it is not an obscene photograph which was made viral by the present applicant.

6. Considering the fact that, now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. The application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Ajay Gangadhar Chauragde** be released on bail in connection with the Crime No.400/2023 registered with Police Station, Goregaon, District Gondia for the offence punishable under Sections 376(2), 376(2)(n)(i) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act and Section 67(B) of the Information Technology Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(iv) The applicant shall not enter into the vicinity of village Chandrapurtoli Katangi, Taluka Goregaon, District Gondia, till the culmination of the trial.

7. The fees of the appointed Counsel be quantified as per rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)