



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

CRIMINAL APPLICATION (BA) NO. 45 OF 2024

Lakhanlal Shriram Sen V/s The State of Maharashtra 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. M.N.Ali, counsel for the applicant.

Mr. N.R.Rode, APP for the non-applicant/State.

Mrs. Archana P. Murrey, counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/02/2024.

1. By this application under Section 439 of the Code of Criminal Procedure, the applicant is seeking bail in connection with Crime No. 781/2023 registered with Police Station Kalmana, Tah. and District Nagpur, for the offence punishable under Section 363, 109, 376(2)(n), 354D, 323, 504 of the Indian Penal Code, 1860 along with Sections 4, 17 of the Protection of Children from Sexual Offences Act, 2012. The applicant is arrested on 02/10/2023.

2. The crime is registered on the basis of report lodged by the father of the victim on an allegation that on 12/09/2023 at about 08.00 a.m. he left the house for his work and his wife also left the house to attend the work. When they returned home in the evening, they found that the daughter/victim is not at home. They enquired about her and searched for her but they could not trace her.

Therefore, a missing report was filed. On the basis of said missing report, the Police initiated the investigation. During the investigation, the statement of the victim was recorded, from which, it reveals that the co-accused took the victim along with her and subjected her for sexual assault. As far as the present applicant is concerned, it is alleged that the present applicant is the brother of the co-accused, who dropped the victim at the railway station, and thereafter, the victim went along with the co-accused. It is further alleged that the present applicant assisted them to flee away from the village and thereafter, the victim was subjected for sexual assault by the co-accused.

3. Learned counsel for the applicant Mr. M.N.Ali submitted that as far as the allegation against the present applicant is concerned, it reveals that it is only to the extent of abatement. There is no allegation that he either subjected the victim for sexual harassment or sexual assault. Now, investigation is completed and charge-sheet is filed, further custodial interrogation of the applicant is not required.

4. He further submitted that even considering the allegation against the co-accused it seems that there was a consensual relationship. He further submitted that considering the only limited role assigned to the present applicant. Now, investigation is completed and charge-sheet is filed, his further incarceration is not required and therefore, he be released on bail.

5. Learned APP strongly opposed the application on the ground that the victim is below 18 years of age, and her consent is not relevant. Moreover, with the help of the present applicant, the co-accused was able to take the victim along with him. Considering the prima-facie case, the application deserves to be rejected.

6. Learned counsel for the informant also endorsed the same contention and requested for rejection of the application.

7. Having heard learned counsel for the applicant, learned counsel for the non-applicant No.2, and learned APP for the State, perused the investigation papers. From the investigation papers, it reveals that the limited role attributed to the present applicant is only to the extent of assisting the co-accused and to take the victim along with him. The allegation is only to the extent that he has dropped the victim at the Railway Station and helped them to flee away from the village. Now, investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, criminal application deserves to be allowed. Accordingly, I proceed to pass the following order;

- a) The criminal application is allowed.
- b) In connection with Crime No. 781/2023 registered with Police Station Kalmana, Tah. and District Nagpur, for the offences punishable under Sections 363, 109, 376(2)(n), 354D, 323, 504 of

the Indian Penal Code, 1860 along with Sections 4, 17 of the Protection of Children from Sexual Offences Act, 2012, the applicant **-Lakhanlal Shriram Sen,** shall be released on bail, on executing P.R. Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.

- c) The applicant shall not enter into the vicinity of Laxminagar, Tah. Kalmana, District Nagpur, till the culmination of the trial.
- d) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- e) The fees of the appointed counsel be quantified as per the Rules.

The criminal application is **disposed of.**

[URMILA JOSHI-PHALKE, J.]