



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

CRIMINAL APPLICATION (BA) NO. 125 OF 2024

Aniket Randhir Morpankhe

Vs.

State of Maharashtra, Through its Investigating Officer, Police Station,
Hiwarkhed, District Akola 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. N. S. Warulkar, Advocate for applicant.

Ms. N. P. Prabhu, APP for respondent No.1/State.

Mr. N. P. Singhania, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 01/04/2024

1. The applicant came to be arrested on 19.07.2023 in connection with Crime No.266/2023 registered with Police Station Hiwarkhed, District Akola for the offences punishable under Sections 363, 354, 354-D, 376, 376(2)(i)(n), 506 of the Indian Penal Code and under Section 3, 4, 5(I) and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of report lodged by the victim on an allegation that she is aged about 15 years and studying in 10th Std. She is residing along with her grand parents. Since last some days, the applicant was following her and therefore, she made a complaint to her uncle as well as her grandfather. The uncle of the victim gave

understanding to the present applicant, but there was no change his behaviour. On 16.07.2023 at about 9.30 p.m. when she along with her grandparents were sleeping in the house, the informant went outside for urinal purpose and when she came out from the washroom, the applicant hold her hands and took her in the agricultural field and subjected her for sexual assault by threatening her by showing the knife. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that out of a love affair, this physical relationship was there. In fact, the applicant has not subjected her for forceful sexual intercourse. Now, the investigation is completed. He further pointed out that there is inconsistency in the statement of the victim which is recorded by the police and the learned Magistrate. Considering now the investigation is completed and charge-sheet is filed. Further incarceration of the applicant is not required. In view of that the applicant 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 was subjected for sexual assault is substantiated by the medical report which shows the injury on the genital parts of the victim. Though the investigation is completed, there is apprehension of tampering of the

witnesses. In view of that, 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. The crime is registered on the basis of report lodged by the victim who alleged that on showing the knife the applicant has taken her in the agricultural field and subjected her for sexual assault. This statement is substantiated by the medical report as the hymen was found tear in a 4 'O' clock position. The presence of the applicant is also noted by the grandfather of the victim on the second day of the incident. Though the investigation is completed and charge-sheet is filed, considering the victim is only 15 years of age and the applicant, who is aged about 24 years of age having maturity and knows the consequences of this act, subjected the victim for sexual assault. *Prima facie* case is made out against the present applicant. The apprehension raised by the prosecution also cannot be ruled out. Considering the *prima facie* case which is made out against the present applicant, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is rejected.

(4)

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(ii) The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

Sarkate