



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

CRIMINAL APPLICATION (BA) NO.159 OF 2024

Satish Vikram Morey

Vs.

State of Maharashtra, Through DGP Buldhana Police Station 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. M. T. Bhingardive, Advocate for applicant.

Mrs. H. N. Prabhu, APP for respondent No.1/State.

Mr. Shantaram S. Morey, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/06/2024

1. The applicant came to be arrested on 07.11.2023 in connection with Crime No.952/2023 registered with Police Station Buldhana City for the offences punishable under Sections 376, 376(2)(n), 506 of the Indian Penal Code and under Sections 4, 8, 12, 5(c), (k), (l) and 6 of the Protection of Children from Sexual Offences Act.

2. The accusation against the present applicant is on the basis of report lodged by victim girl aged about 13 years. On an allegation that she was born on 19.05.2010 and she is 46% handicapped in both legs. She was studying in 8th standard at the time of relevant incident. As per her allegations, after school she was attending the classes and during the period of July to September, the applicant met her and inquired about her whether there is an

arrangement of her education, accommodation etc. and she disclosed that she is residing in the boarding for girls. On 16.09.2023 when she was proceeding from hostel to school at that time, present applicant came from the back side in a car and asked her to sit in the car on the pretext of dropping her in the school. On her denial, he forced her to sit and therefore, she sat in the car. He took her at isolated place and subjected her for sexual assault. It is further alleged that thereafter repeatedly she was subjected for sexual assault and the applicant has also obtained her obscene photographs and he was stated by saying that if she disclosed the said incident to anybody her obscene photographs would be made viral. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the applicant is falsely implicated in the alleged incident. In fact, there was a money transaction between the mother of the victim and him and as he stop to give a monetary help, this false FIR is lodged against him. He further submitted that now the investigation is completed, charge-sheet is filed, further incarceration of the present is not required. He submitted that FIR is lodged at a belated stage i.e. after 46 days of the incident. The medical evidence is also not supporting the prosecution case. Considering all these aspects, he be released on bail.

4. Learned APP and learned Counsel for the respondent No.2 strongly opposed the said application on the ground that victim is only 13 years of age, whereas the applicant is 41 years grownup man. She was subjected for sexual assault and there was no reason for the victim to implicate the present applicant falsely. It is further submitted that the applicant has not only subjected her for sexual assault but also obtained her obscene photographs and by threatening her, he repeatedly assaulted her sexually. The statements of the witnesses also supports the prosecution case, in view of that the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant, learned APP for the State and learned Counsel for the respondent No.2, perused the recitals of the FIR as well as the investigation papers. The applicant is a Teacher by profession. As per the allegation made by the victim, applicant used to follow her and was inquired with her regarding her accommodation and education etc. On the day of incident and thereafter also he took her at various places and subjected her for sexual assault. Admittedly, the FIR is lodged after 46 days, but the said delay is explained by her in the FIR by saying that as she was threatened that he would make the obscene photographs viral, she has not lodged the report or disclosed the incident to anybody.

6. During the investigation, various statements are recorded wherein she has disclosed the said incident to her parents as well as her statement recorded under Section 164 of the Code of Criminal Procedure (Cr.P.C.) also consistent with the statement under Section 161 of Cr. P.C. During the investigation, statement of one Vaishali Ramdas Sonune was recorded which shows that she was the Rector of the said ladies hostel. From 23.07.2023 victim is residing in the said hotel. Her statement further reveals that victim was having one mobile phone and when she was inquired with the said mobile phone, she disclosed that said mobile phone was handed over to her by the present applicant. The applicant has not explained why the said mobile phone was handed over to the victim, when he is not at all concerned with the alleged offence. Admittedly, the injuries on the person of the victim is not *sine qua non* for establishing the offence punishable under Section 376 of the Indian Penal Code. At this stage, the statement of the victim is sufficient to attract the provisions. Additional circumstance that one mobile phone handed over by the present applicant to her also shows the involvement of the present applicant with the alleged offence.

7. Considering the gravity of the offence that the victim girl is only 13 years of age and was subjected for sexual assault by the present applicant

who is a grownup man. Considering the *prima facie* case made out against the present applicant, bail application deserves to be rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)