



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

**CRIMINAL APPLICATION (BA) NO. 176 OF 2024**

Jageshwar Dondu Bhonde V/s State of Maharashtra and another.

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

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Court's or Judge's Order

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Mr. V.S. Mishra, counsel for the applicant.

Mrs. Shamshi Haider, APP for the non-applicant/State.

Ms. Kirti Deshpande, counsel (appointed) for non-applicant No.2.

**CORAM : URMILA JOSHI-PHALKE, J.**

**DATED : 24/04/2024.**

1. The applicant came to be arrested on 21/07/2023, in connection with Crime No. 386/2023, registered with Goregaon Police Station, Gondia for the offence punishable under Sections 363, 376(1), 376(2)(n) of the Indian Penal Code, 1860 and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicant is the on the basis of report lodged by father of the victim, on an allegation that on 09/07/2023, he alongwith his wife had been to Mandodevi Devasthan, and his daughter was alone in the house, when he returned back, he could not found his daughter in the house, therefore he searched her but could not traced her. On the basis of the said report, initially the crime was registered under Section 363 of the Indian Penal Code. During investigation, the statement of the victim was recorded who is 17 years of age. From her statement, it

reveals that she was having love affair with the present applicant and therefore, she left her parents house and joined the company of the present applicant. There was a physical relationship between them, which resulted into her pregnancy. Therefore, the crime was registered under Sections 376, 376(2)(n) and under the provision of the Protection of Children from Sexual Offences Act, 2012.

3. Learned counsel for the applicant submitted that as far as the allegation regarding sexual assault is concerned, is falsified by the statement of the victim, who admitted that she was having love affair with the present applicant, she is on the verge of the attaining the majority and she specifically stated that the physical relationship between them is out of love affair and by her consent. Now, investigation is already completed and charge-sheet is already filed, further incarceration of the applicant is not required.

4. Learned APP and learned appointed counsel for non-applicant No.2 strongly opposed the said application on the ground that consent of the victim is not relevant, as she is below 18 years of age. Now, victim has delivered a male child and she is languishing in the shelter home. There is every possibility of tampering of the witnesses. In view of that, application deserves to be rejected.

5. Having heard learned counsel for the applicant, learned APP for the State as well as learned appointed counsel, perused investigation papers. From which, it reveals that, initially the crime was registered under Section 363 and

Section 366 of the Indian Penal Code, 1860. During the investigation, the statement of the victim was recorded from which it reveals that out of love affair she joined the company of the present applicant and therefore, out of the love affair, there was physical relationship between them. Thus, from the facts and from the statement on record, it reveals that the alleged incident has not taken place out of the lust but there was a physical relationship between them out of the love affair. It seems that, the applicant who is aged about 26 years and the victim aged about 17 years, came together out of the attraction and out of the said attraction, they had sexual relationship between them. Considering the circumstances under which the alleged incident taken place, further incarceration of the present applicant is not required. Now, the investigation is also completed and charge-sheet is also filed. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (a) The criminal application is **allowed**.
- (b) The applicant – **Jageshwar Dhondu Bhonde**, shall be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount, in connection with Crime No. 386/2023, registered with Goregaon Police Station, Gondia for the offence punishable under Sections 363, 376(a), 376(2)(n) and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

- (c) The applicant shall not in any way contact with the victim and shall not induce, threat or promise her in any manner.
- (d) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- (e) The applicant shall not enter into the vicinity of the Kalpathari, Tq.Goregaon, District Gondia till culmination of the trial.
- (f) The fees of the appointed counsel be quantified as per the Rule.

The criminal application is **disposed of**.

**[URMILA JOSHI-PHALKE, J.]**