



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.217 OF 2024

(Atul s/o Ajabrao Tekam Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Mr. P. Rewatkar, Advocate h/f Mr. A.J. Mirza, Advocate for the applicant.
Mr. N.B. Jawade, APP for the State.
Ms C.S. Bhute, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JULY 22, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 01/11/2023 in connection with Crime No.351/2023 registered at Police Station Shirkhed, District Amravati for the offences punishable under Sections 376(3), 376(2)(n), 452, 354-A, 354-D and 504 read with Section 34 of the Indian Penal Code and Sections 4, 5(c), 6 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned Counsel for the applicant submitted that the crime is registered on the basis of report lodged by the victim aged about 16 years on an allegation that the present applicant was having ill intention about her and attempted to talk with her. She further alleged that the applicant has threatened her that if he is not allowed to have a physical relations with her he would commit the suicide. He also threatened her that if she did not allow

him to have physical relations with her he will kill her and subjected her for sexual assault on multiple occasions which resulted into her pregnancy. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that there was a love affair between the victim and the present applicant and out of that there was a physical relations between them. Now, the investigation is already completed and charge-sheet is filed, further incarceration is not required. In view of that, the applicant be released on bail.

4. Learned APP for the State and learned Counsel for non-applicant No.2 strongly opposed the application on the ground that the victim is below 18 years of age, her consent is not relevant. Moreover, there was no such love affair between the victim and the applicant, but the applicant has threatened her on one or the other count and subjected her for forceful sexual assault which resulted into the pregnancy. The medical report also supports the said contention as hymen found to be torn. The DNA report is yet to be received. There is apprehension that if the applicant is released on bail, he would tamper with the prosecution evidence.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it

reveals that 16 years girl was subjected for the sexual assault by the present applicant either by threatening her that he would commit suicide or by threatening her that he will kill her. Thus, she was subjected for sexual assault by force by the present applicant. As far as the contention of the applicant that there was a love affair is not supported either by the statement of the victim or by any other material. At this stage, *prima facie* case is made out against the present applicant. The apprehension raised by the investigating agency cannot be ruled out as to the tempering of the witnesses is concerned. In view of that, the application deserves to be rejected.

6. Hence, the application is rejected accordingly.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*