



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

CRIMINAL APPLICATION (BA) NO. 208 OF 2024

Santosh Shrikrushna Jadhao V/s 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.V.Rai, counsel for the applicant.

Mr. H.R.Dhumale, APP for the non-applicant/State.

Ms. Anuprita S. Mishrikotkar, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/04/2024.

1. The applicant came to be arrested on 27/11/2023, in connection with Crime No. 967/2023 registered with Police Station Darwha, District Yavatmal for the offence punishable under Sections 376, 376(2)(j) of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicant is on the basis of report lodged by the victim aged about 17 years alleging that she studied upto 11th Standard and was doing the Beauty Parlor Course. She got acquaintance with the present applicant, and present applicant which resulted in a love affair. He promised her for marriage and on the promise of marriage, there was a physical relationship between them, which resulted into her pregnancy and she delivered a child. On the basis of said report, the police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that from the statement of the victim it reveals that, out of a love affair, there was a physical relationship between them. It is not the case, wherein the applicant has subjected her for sexual assault out of love, but they came together out of a love affair and a physical relationship was developed between them. Now, the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, he be released on bail.

4. Learned APP and learned appointed counsel strongly objected the application submitting that the consent of the victim is not required is not relevant as she is below 18 years of age. On the false promise of marriage, she was subjected for sexual assault, if the applicant/accused released on bail, he would tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

5. Having heard learned counsel for the applicant, learned APP for the State, and learned appointed counsel for the victim, perused the investigation papers. From the recitals of the FIR which is lodged by the victim, it reveals, out of the love affair, she had a physical relationship with the present applicant. It is also alleged that he had promised her for marriage. Whether the victim has consented under the misconception of the facts or it was a false promise of marriage, is a matter of evidence. Moreover, the victim is 17 years of age therefore, her consent is not relevant. But it appears that out of love affairs, they came together and there

was a physical relationship between them. Now, investigation is already completed and charge-sheet is filed, no purpose will be served by keeping the present applicant behind the bar, as further incarceration is not required. In the above circumstances, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a] The criminal application is **allowed**.
- b] The applicant- **Santosh Shrikrushna Jadhao**, shall be released on bail, in connection with Crime No. 967/2023 registered with Police Station Darwha, District Yavatmal for the offence punishable under Sections 376, 376(2)(j) of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, on executing of 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 village Darwha except attending the dates of the trial.
- d] The applicant shall attend the proceedings before the learned trial Court without seeking any exemption unless there are exceptional circumstances.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- f] The fees of the appointed counsel be quantified as per the Rules.

The criminal application **disposed of**.

[URMILA JOSHI-PHALKE, J.]