



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

CRIMINAL APPLICATION (BA) NO.212 OF 2024

Shubham s/o Ratan Dhanjode

Vs.

State of Maharashtra, Through Police Station Officer, Mauda, District
Nagpur 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. K. S. Motwani, Advocate for applicant.
Mr. N. B. Jawade, APP for respondent No.1/State.
Ms. Aarti Singh, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26 /04/2024

1. The applicant came to be arrested on 26.12.2023 in connection with Crime No.1240/2023 registered with Police Station Mauda, District Nagpur for the offences punishable under Sections 376(2)(j) 376(2)(n) of the Indian Penal Code and Sections 4 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 aged about 17 years and 8 months on an allegation that she got acquaintance with the present applicant from last two years and friendship was developed between them. Out of love affair, there was a physical relationship between them. On 26.12.2023, when she attended the college, the applicant met her and

thereafter, they went in one hotel, when she was along with present applicant in the hotel, her brother came there and therefore, she lodged the report against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the statement of the victim is concerned, from which it reveals that out of a love affair, there was a physical relationship, but merely because she was got with the present applicant by her brother, this false FIR is lodged. Now, the investigation is completed and charge-sheet is filed. The victim is on the verge of attaining the majority. Considering that out of attraction, victim joined the company of the present applicant and out of a love affair, there was a physical relationship, no offence is made out against the present applicant, in view of that he be released on bail.

4. Learned APP and learned appointed Counsel for the respondent No.2 raised the strong objection on the ground that victim is minor and her consent is not relevant. The applicant has subjected her for sexual assault on the promise of marriage, in view of that, the application be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the recitals of the FIR as well as the statement of the victim. From the statement of the victim, it reveals

that at the time of incident she was 17 years and 8 months i.e. on the verge of attaining the majority. Her statement further shows that she acquainted with the present applicant from last two years and friendship was developed between them, which resulted into the love affair. Out of a love affair, there was a physical relationship. Thus, it is not the case that the incident occurred as the applicant has subjected her for assault out of lust, but it is the youngest attraction due to which the alleged incident has taken place. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required, in view of that, application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Shubham s/o Ratan Dhanjode** shall be released on bail in connection with Crime No.1240/2023 registered with Police Station Mauda, District Nagpur for the offences punishable under Sections 376(2)(j), 376(2)(n) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Kesori, Taluka Kamptee, District Nagpur, till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The applicant shall attend the proceeding before the learned Special Court without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)