



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

CRIMINAL APPLICATION (BA) NO.224 OF 2024

(Gajanan s/o Ramesh Ambhore Vs. The 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. N.B. Kalwaghe, Advocate for the applicant.
Ms S. Haider, APP for the State.
Ms S. Saware, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- APRIL 30, 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 16/10/2023 in connection with Crime No.226/2023 registered with Police Station Raipur, District Buldhana for the offence punishable under Sections 376, 376(2)(f), 376(2)(j) and 506 of the Indian Penal Code and Sections 4, 5(n), 6, 8 and 12 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 16 years and 6 months who alleged that on 27th April, 2023 she was alone in the house, at that time present applicant who is her maternal uncle closed the door of the house and subjected her for sexual assault. On the basis of said report, police have registered the crime against the present applicant. During investigation, the Investigating

Officer has referred the victim for medical examination. During medical examination, no injuries are found on her person. During investigation, she and her mother further referred to the Magistrate for recording their statements under Section 164 of the Cr.P.C. wherein they both have stated that out of the anger as there was a quarrel between the applicant and mother of the victim, this FIR is lodged.

3. Learned Counsel for the applicant submitted that the recitals of the FIR and the subsequent statement made by the victim and mother of the victim and also medical certificate which shows there is no injury sufficiently shows the false implication of the present applicant in the alleged offence. Now investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required and prays for releasing the applicant on bail.

4. Learned Additional Public Prosecutor and learned Counsel for respondent No.2 strongly opposed the application on the ground that 16 years girl is subjected for sexual assault by the maternal uncle. Considering the *prima facie* case application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the FIR is lodged on the basis of report lodged by the victim aged about 16 years and 6 months.

Subsequent to the lodging of the FIR, her statement is recorded before the Magistrate wherein she denied the allegation and stated that out of the anger said FIR is lodged by her. Now, investigation is completed and charge-sheet is filed. The medical certificate also does not support the allegation made by the victim. Though learned Counsel for the victim submitted that the victim has no objection to release the applicant on bail, however her contention at this stage, cannot be taken into consideration. Considering the fact that the allegation made by the victim is not substantiated by the medical report and by the statement of her mother also and considering the investigation is completed, further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Gajanan s/o Ramesh Ambhore in connection with Crime No.226/2023 registered with Police Station Raipur, District Buldhana for the offence punishable under Sections 376, 376(2)(f), 376(2)(j) and 506 of the Indian Penal Code and Sections 4, 5(n), 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on his executing a P.R.Bond in the sum of

Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

6. The application stands disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*