



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

CRIMINAL APPLICATION (BA) NO.271 OF 2024

(Shri Nitesh Narendrasinh Baghel 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. A.Z. Jibhkate, Advocate for the applicant.
Ms R.V. Sharma, APP for the State.
Mr. S. Paliwal, Advocate for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 25, 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 28/08/2023 in connection with Crime No.291/2023 registered with Police Station Deori, District Gondia for the offence punishable under Sections 354-A(1),(2),(3) and 342 of the Indian Penal Code and Sections 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 12 years and 9 months wherein she alleged that when she was alone in the house on 21/08/2023 the applicant who she knows as an Uncle and she used to visit his house, she alleged that he was standing in front of her house and called her as she did not went there he again called her and hence she went at his house. He took her in the bedroom and subjected her for sexual assault. On the basis

of said report, police have registered the crime against him. After registration of the crime, victim was referred for medical examination. During her medical examination, it revealed that she had injury on her genitals and hymen was found to be torn and tear was 3 O'clock and 9 O'clock position.

3. Learned Counsel for the applicant submitted that as far as the first statement of the victim is concerned from which it reveals that there was no sexual assault on her but subsequently she modified her version and alleged that she was subjected for sexual assault. He submitted that now investigation is completed, charge-sheet is filed. He further submitted that victim has lodged the report after 8 days of the incident, so there is every possibility of concoction and filing of the report after thought. He further submitted that considering now the investigation is completed, charge-sheet is filed, further incarceration of the applicant is not required. He be released on bail.

4. Learned Additional Public Prosecutor and learned Counsel for respondent No.2 strongly opposed the application on the ground that 12 years and 9 months girl was subjected for sexual assault and her contention is substantiated by the medical report. If the applicant/accused is released on bail he would tamper with the prosecution evidence, and therefore, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers. The FIR is registered on the basis of report lodged by the victim herself. She is 12 years and 9 months of age. As per the allegation the applicant took her at his house, disrobed her and subjected her for sexual assault. The statement of the victim is substantiated by the medical report wherein the hymen and tear was found which was in a 3 O'clock and 9 O'clock in a position. The statements of the other witnesses also substantiate the contention. At this stage, *prima facie* case is made out against the present applicant. Considering the gravity of the offence that 12 years girl was subjected for sexual assault by the applicant who is of age of her father and the apprehension raised by the prosecution that there is every likelihood of tampering of the witnesses, no case is made out for grant of bail. In view of that, the application deserves to be rejected.

6. Hence, the application is rejected accordingly.

7. The trial Court shall expedite the trial and shall make every endeavour to dispose of the trial within one year.

(URMILA JOSHI-PHALKE, J.)