



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

CRIMINAL APPLICATION (BA) NO. 308 OF 2024

Milind Kushal Jiwane Vs 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. S.M. Lodha, counsel for the applicant.
Mr. K.R. Lule, APP for the non-applicant/State.
Mr. M.V. Rai, counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 05/07/2024.

1. The applicant came to be arrested on 23/03/2023, in connection with Crime No. 111/2023 registered with Police Station Shirpur, District Yavatmal for the offences punishable under Sections 363, 366A, 376(3) of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned counsel for the applicant submitted that the victim is alleged to be have 14 years of age and studying in 8th standard. The FIR was lodged by the mother of the victim girl on an allegation that on 13/03/2023 when she woke up at 04.00 a.m., victim was not in the house and therefore, she searched for the victim and the victim was not traceable. Thereafter, she came to know that the present applicant took her daughter. On the basis of said report, the police have initially registered the crime against the present applicant under Sections 363 and 366A of the Indian Penal Code, 1860. During the investigation, the investigating officer has

recorded the statement of the victim girl. He submitted that, from the statement of the victim girl, it reveals that it was the victim, who called the present applicant and went alongwith him. They stayed at the sister of the applicants house for two to three days, and thereafter, they returned back. It is alleged that during that period, she was subjected by sexual assault by the applicant on the promise of marriage.

3. He submitted that now the investigation is completed and charge-sheet is filed, considering the statement of the victim, it was the victim who called him and insisted him to take her and therefore, the applicant has taken her. He further submitted that, considering the investigation is completed and further incarceration of the applicant is not required, he be released on bail.

4. Learned APP and learned counsel for the victim strongly opposed the said application on the ground that victim is only 14 years of age, whereas the applicant is 28 years of age. The consent of the victim is not relevant, and therefore, considering the circumstances that the applicant has subjected the minor victim girl, for sexual assault, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the statement of the victim. Admittedly, the consent of the victim is not relevant but considering the fact and circumstances under which, the victim was taken by the applicant is also relevant. The

statement discloses that it was the victim who called the present applicant at her house, and thereafter joined his company and insisted him to take her from the parents house, therefore, the applicant has taken her. Now investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required. In view of that, application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a) The applicant -Milind Kushal Jiwane shall be released on bail, in connection with Crime No. 111/2023 registered with Police Station Shirpur, District Yavatmal for the offences punishable under Sections 363, 366A, 376(3) of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- b) The applicant shall not inter into the vicinity of village Murti, Tah. Wani, District Yavatmal till culmination of the trial.
- c) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- d) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless exceptional circumstances.

The application stands **disposed of**.

[URMILA JOSHI-PHALKE, J.]