



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

CRIMINAL APPLICATION (BA) NO.324 OF 2024

(Mr. Amar s/o Shrawanji Bhade Vs. 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. R.R. Vyas, Advocate for the applicant.
Mr. H. Dhumale, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 6, 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 27/03/2018 in connection with Crime No.140/2018 registered with Police Station Karanja (Ghadge), District Wardha for the offence punishable under Sections 363, 366-A, 376(2)(i), 376(2)(j) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned Counsel for the applicant submitted that in connection with the said crime the applicant approached to the Sessions Court for grant of bail and he was released on bail by passing order on 13/07/2018 on executing P.R. Bond of Rs.15,000/-. After furnishing the bail, the applicant has not attended the proceedings, and therefore, non-bailable warrant was issued against him, and therefore, he is behind bar.

3. Learned Counsel for the applicant further submitted that as the applicant is driver by profession he had been to out of Wardha due to his work, and therefore, he could not attend the Court. There was no intention to held up the trial but due to his work he could not attend the Court. Now, the evidence of the victim is also recorded and further incarceration of the present applicant is not required.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that if the applicant is released on bail again the trial would be held up. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and the order passed by the trial Court which shows that the allegation against the present applicant was that he has sexually assaulted the victim and she was forcibly taken from the custody of her guardian. The record shows that she herself left home without the permission of her parents and joined the company of the accused. The medical report shows that there is no history of sexual assault by the victim girl and victim girl is habituated to sexual assault. By considering all these facts, he was released on bail considering that there was evidence to the effect that there was a love affair between the present applicant and the victim. After releasing the applicant on bail he has not attended the trial Court, and therefore, non-bailable

warrant is issued. Now, considering the fact that the trial is already commenced and the evidence of the victim is already recorded, further incarceration of the applicant is not required. However, considering that due to his absence trial will held up, some conditions require to be imposed on him. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Mr. Amar s/o Shrawanji Bhade in connection with Crime No.140/2018 registered with Police Station Karanja (Ghadge), District Wardha for the offence punishable under Sections 363, 366-A, 376(2)(i), 376(2)(j) of the Indian Penal Code and Section 4 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 leave the jurisdiction of Wardha district without prior permission of the Court.

(iv) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

(v) 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.

(URMILA JOSHI-PHALKE, J.)

**Divya*