



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

CRIMINAL APPLICATION (BA) NO. 347 OF 2024

Rakesh s/o Bhaurao Tandekar V/s 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. N.S.Trivedi, counsel for the applicant.

Mrs. R.V.Sharma, APP for the non-applicant/State.

Ms. C.S.Bhute, counsel (appointed) for the non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 08/05/2024.

1. The applicant came to be arrested on 25/11/2023, in connection with crime No. 1313/2023 registered with Police Station Katol, District Nagpur for the offence punishable under Sections 376, 376(2) N of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusations against the present applicant is on the basis of report lodged by the victim aged about 17 years and 8 months, who alleged that she got acquaintance with the present applicant and friendship was developed between them. They were communicating with each other out of love affair. It is further alleged that present applicant promised her for marry and subjected her for sexual assault and subsequently, he declined to marry with her. Due to the physical relationship, she conceived. On the basis of the said,

the police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that as far as the allegations are concerned, it appears that the applicant who is aged about 20 years old and the victim is of 17 years of old having physical relationship between them. There was no intention to cheat the victim or breach of promise. Whatever happened is due to love affair, as there was attraction of each other. Now, the investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required and prays for releasing him on bail.

4. Learned APP and learned appointed counsel strongly opposed the said application on the ground that victim was below 18 years of age, her consent is not relevant. The applicant has promised her for marriage and subjected her for sexual assault and subsequently committed the breach of the said promise. In view of that, application deserves to be rejected.

5. Having heard learned counsel for the applicant, learned APP for the State and appointed counsel, perused the investigation papers. From which, it reveals that victim who is a grown up girl, on the verge of attaining the age of majority, she attracted towards the present applicant out of love affair, and out of love affair, there was a physical relationship between them. Thus, it is not the case, wherein the victim was subjected for sexual assault out the lust. Whatever happened is

out of the love relationship between them. 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] In connection with crime No. 1313/2023 registered with Police Station Katol, District Nagpur for the offence punishable under Sections 376, 376(2) N of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 the applicant – Rakesh Bhaurao Tandekar shall be released on bail, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- b] The applicant shall not enter into the vicinity of Katol, District Nagpur.
- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- d] The fees of the appointed counsel be quantified as per the Rules.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]