



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

CRIMINAL APPLICATION (BA) NO.357 OF 2024

Kunalkumar s/o Ramprit Pandit

Vs.

State of Maharashtra, Through Police Station Officer Buldhana Rural,
District Buldhana and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. S. S. Kulkarni, Advocate for applicant.
Mr. U. R. Phasate, APP for respondent No.1/State.
Mr. S. D. Chande, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/05/2024

1. By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.69/2024 registered with Police Station, Buldhana Rural, District Buldhana for the offences punishable under Sections 376, 452, 504, 506 of the Indian Penal Code and under Section 4 and 12 of the Protection of Children from Sexual Offences Act.

2. The allegation against the present applicant is on the basis of report lodged by the victim on an allegation that she is a married lady and she came at Varvand village for doing labour work and she was residing on the work side. The present applicant was also residing in her neighbourhood. On 01.03.2024, when she was alone in the house present applicant entered into 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 statement of the victim as well as the husband of the victim is recorded and after completion of the investigation the charge-sheet is filed.

3. Learned Counsel for the applicant submitted that due to the previous enmity, the present applicant is implicated falsely. Subsequently, the informant has filed an affidavit to the extent that in a fit of anger due to the previous dispute, she has filed the FIR. She further submitted that as far as the age of the victim is concerned, which is 19 years narrated by her. The ossification test shows her age 15 to 17 years, but considering the error of two years, she has already attained the age of majority, therefore the provisions of Protection of Children from Sexual Offences Act, are not applicable. She submitted that considering now the victim has already stated on oath that in a fit of anger she has lodged the report which shows that the applicant is not involved in such type of offence. Considering the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required and he be released on bail.

4. Learned APP and learned Counsel for the respondent No.2 strongly opposed the application. Perused the investigation papers and the statement of the victim as well as the affidavit of the victim. Considering the fact that now investigation is already

completed and charge-sheet is filed, further incarceration of the present applicant is not required. Though offence alleged is serious in nature but now victim has withdrawn her statement as well as the medical certificate also shows that there are no injuries found on her person. Considering the nature of the entire evidence, further incarceration of the applicant is not required and therefore, the application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Kunalkumar s/o Ramprit Pandit** shall be released on bail in connection with Crime No.69/2024 registered with Police Station, Buldhana Rural, District Buldhana for the offences punishable under Sections 376, 452, 504, 506 of the Indian Penal Code and under Section 4 and 12 of the Protection of Children from Sexual Offences Act, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

5. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)