



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

CRIMINAL APPLICATION (BA) NO.375 OF 2024

(Shyam s/o Prashant Belkhode 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. S. Dewani, Advocate a/w Ms Bangde, Advocate for the applicant.
Ms S. Thakur, APP for the State.
Ms R.M. Mishra, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JUNE 12, 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 22/02/2024 in connection with Crime No.61/2024 registered with Police Station Wathoda, Nagpur for an offence punishable under Sections 376 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned Counsel for the applicant submitted that the accusation against the present applicant is on the basis of report lodged by the victim girl aged about 15 years and 9 months alleging that she was studying in 10th standard at the relevant time. She got acquaintance with the present applicant and they were communicating each other. They were also meeting each other by communicating on Instagram. As per her allegations on the day of incident i.e. on 19/01/2024 at about 7.15 p.m.

on the pretext of giving her Panipuri he took her at isolated place and subjected her for sexual assault. On the basis of said report, police have registered the crime.

3. Learned Counsel for the applicant submitted that out of love affair there was a physical relationship between the victim and the present applicant. The victim was on the verge of attaining the majority at the time of incident. Now, investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the application on the ground that the victim is below 18 years of age, and therefore, her consent is not relevant. If applicant is released on bail he would tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the victim was on the verge of attaining the majority as at the time of incident she was 15 years and 9 months of age. From the recitals of the FIR itself it reveals that there was acquaintance between the victim and the present applicant and they were communicating with each other from the social media. They were also meeting with

each other on the various places and the applicant was dropping her at home also. From the recitals of the FIR it reveals that both are the teenagers and having love affair, and therefore, there was a physical relationship between them. Considering now the investigation is already completed and charge-sheet is filed. No purpose will be served by keeping the present applicant behind bar. Considering the circumstances under which the alleged incident has taken place is also relevant. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Shyam s/o Prashant Belkhode in connection with Crime No.61/2024 registered with Police Station Wathoda, Nagpur for an offence punishable under Sections 376 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on his executing a PR.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall not enter into the jurisdiction of Nandanvan police station, District Nagpur till culmination of the trial.

(iv) 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.

(v) The applicant shall attend the proceeding before the Special Court regularly without seeking any exemption unless there are exceptional circumstances.

6. The application stands disposed of.

7. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*