



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

CRIMINAL APPLICATION (BA) NO.380 OF 2024
(Tikeshwar s/o Gopi Naitam 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. N.K. Bhangde, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.
Ms A.S. Mishrikotkar, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 26, 2024.

By this application the applicant is seeking bail in connection with Crime No.294/2023 registered with Police Station Aroli, District Nagpur for the offence punishable under Sections 376, 376(2)(n), 376(3) and 506 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 crime is registered on the basis of report lodged by the victim girl on an allegation that at the relevant time she was 15 years and 221 days of age. She got acquaintance with the present applicant and there was a love affair between them. She alleged that present applicant on the promise of marriage subjected her for sexual assault on multiple occasions which resulted into her pregnancy. On the basis of said say, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that from the recitals of the FIR itself it reveals that there was a love affair between the victim and the present applicant. Present applicant is also 21 years of age so the victim who is almost of 16 years of age both are teenagers, attracted towards each other out of the love affair and due to the love affair there was a physical relationship between them. Now, the investigation is completed and charge-sheet is filed, further custodial interrogation is not required. In view of that, he be released on bail. He further submitted that though applicant is behind bar and charge-sheet is filed, there is no progress in the trial. The applicant cannot be detained behind bar for the indefinite period.

4. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the said application on the ground that 16 years girl was subjected for sexual assault. The consent of the victim girl is not relevant. She was forced with the pregnancy and DNA report is yet to received. If applicant/accused 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 the both the parties. Perused the investigation papers from which it reveals that the victim who is almost 16 years of age and the applicant who is of 21 years of age fall in love with each other and out of that there was a physical

relationship between them which resulted into the pregnancy of the victim. Admittedly, the consent of the victim is not relevant but it is not the case that she was subjected for sexual assault out of lust but two teenagers fall in love and out of that there was a physical relationship and such type of incidents between the teenagers to be treated differently. Considering the circumstances under which the alleged incident has taken place and considering the fact that now the investigation is completed and charge-sheet is filed, further incarceration is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Tikeshwar s/o Gopi Naitam in connection with Crime No.294/2023 registered with Police Station Aroli, District Nagpur for the offence punishable under Sections 376, 376(2)(n), 376(3) and 506 of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on executing P.R. Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Tuman, Post Aroli, Tahsil Mauda, District Nagpur till culmination of the trial.

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

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

6. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*