



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

CRIMINAL APPLICATION (BA) NO.463 OF 2024

(Harshit s/o Madhukar Dirgude Vs. The State of Maharashtra thr. PSO PS Kurkheda,
Dist. Gadchiroli and another)

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

Court's or Judge's orders.

Mr. A. G. Hunge, Advocate for Applicant.
Ms. Soniya Thakur, APP for Non-Applicant No.1/State.
Mr. Yash Kullarwar, Advocate (Appointed) for Non-Applicant No.2.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 4th JULY, 2024.

1. Heard.
2. Application for grant of bail.
3. Though victim is served. None represented victim. Therefore, learned counsel Mr. Kullarwar present before the Court is appointed to represent the victim.
4. The applicant came to be arrested on 19.12.2023 in connection with Crime No.244/2023 registered with Police Station Kurkheda, District Gadchiroli for the offences punishable under Sections 376, 376(2)(j), 376(2)(n), 363, 342, 506 read with Section 34 of the Indian Penal Code and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act.
5. The crime is registered on the basis of report lodged by the victim girl on an allegation that due to one

religious function at the house of her relative she got acquaintance with the co-accused namely Prenal Khemchand Karade. Thereafter said co-accused was communicating with her to the mobile phone of her friend. On 31.10.2022 also he approached to her and tried to communicate with her and also expressed that he is having love affair with her and he wants to marry with her. On 12.06.2023 also he called her and also informed her that he came in the village she was sleeping in the court-yard of her maternal uncle's house on that night he along with the present applicant came there took her along with him and thereafter present applicant dropped her at Kurkheda at the house of Ritesh Sangole who is the co-accused. He alleged that the co-accused has subjected her for sexual assault as far as the allegation against the present applicant is concerned it is only alleged that the present applicant took her and the co-accused on motor-cycle and dropped her at the house of Ritesh Sangole wherein she was subjected her for sexual assault.

6. The learned counsel for the applicant Mr. Hunge submitted that considering the role of the present applicant there is no allegation of sexual assault on victim but only allegations of instigation or aiding. As far as the entire investigation papers are concerned even the offence of abetment is not made out against the present applicant. Now investigation is completed, charge-sheet is filed. Further incarceration of the present applicant is not required. The other co-accused is already released on bail.

7. Learned APP and learned counsel appointed for the victim strongly opposed the said application on the ground that the present applicant not only instigated but aided the co-accused to take the victim and thereafter victim was subjected for sexual assault. Thus, considering the role of the present applicant bail application deserves to be rejected.

8. After hearing the learned counsel for the applicant and learned APP for the State. Perused the investigation papers from which it reveals that only role attributed to the present applicant that he took the victim and the co-accused on his motor-cycle and dropped them at the house of another co-accused. Except this allegation there is no other allegation to the extent of either kidnapping or sexual assault on the victim. Now investigation is already completed, charge-sheet is already filed. Further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

- i] Criminal Application is allowed.
- ii] The applicant – Harshit s/o Madhukar Dirgude is released on bail on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety of like amount in connection with Crime No.244/2023 registered with Police Station Kurkheda, District Gadchiroli for the offences

punishable under Sections 376, 376(2)(j), 376(2)(n), 363, 342, 506 read with Section 34 of the Indian Penal Code and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act.

- iii] The applicant shall not induce, threat or promise to any witnesses who are acquainted with the facts of the present case.
- iv] The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there exceptional circumstances.

9. The application is disposed of.

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

JUDGE