



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

CRIMINAL APPLICATION (BA) NO. 455 OF 2024

Bhojraj Parasram Kolhe Vs 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. V.H. Pandey, counsel for the applicant.

Mrs. H.N.Prabhu, APP for non-applicant/State.

Ms. Radha Mishra, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/07/2024.

1. The applicant came to be arrested on 02/12/2023, in connection with crime No. 642/2023 registered with Police Station Goregaon, Tah. Goregaon, District Gondia for the offence punishable under Sections 376,376(2)(I) of the Indian Penal Code, 1860.

2. The accusation against the present applicant is based on a report lodged by the victim, on an allegation that on 01/12/2023, at about 5.00 p.m., when she was proceeding from the Chichgaon, she met the present applicant, and she requested the present applicant to drop her at her village. On the way, the present applicant has subjected her for sexual assault by taking her into the agricultural field. On the basis of said report, the police have registered the crime against the present applicant.

3. During the investigation, the investigating officer has recorded the relevant statements of the witnesses, and

now the investigation is completed and the charge-sheet is filed.

4. Learned counsel for the applicant submitted that, as the present applicant has objected for the inter-caste marriage of the sister of the victim, this false report is lodged against him. He further submitted that, as far as further incarceration of the present applicant is concerned, which is not required, and there may be several reasons for causing the injuries on the fourchette. Thus, he submitted that, considering all these aspects, he be released on bail.

5. Learned APP strongly opposed the said application on the ground that the statement of the victim is supported by the medical evidence, and if the applicant/accused is released on bail, he would tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

6. Learned appointed counsel for respondent No.2 reiterated the same contention and objected for grant of bail.

7. After hearing learned counsel for the applicant, learned APP for the State and learned appointed counsel for the non-applicant No.2, perused the investigation papers, from which it reveals that the victim is a patient of mental illness. Her disability certificate shows that her disability and mental capacity is upto 50%. As per her allegation, she approached the present applicant and requested him to drop her at her village, and the present applicant by taking

disadvantage of the darkness subjected her for sexual assault. The allegation is supported by the medical certificate, as injury was found on her posterior part of the fourchette. The statements recorded during the investigation also show the presence of the present applicant along with the victim on the day of the incident. Thus, prima-facie case is made out against the present applicant, however, considering the investigation is completed and charge-sheet is filed, and further incarceration of the present applicant is not required. Hence, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.
- b) The applicant- Bhojraj Parasram Kolhe shall be released on bail, in connection with crime No. 642/2023 registered with Police Station Goregaon, Tah. Goregaon, District Gondia for the offence punishable under Sections 376,376(2)(I) of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c) The applicant shall not enter into the vicinity of Silegaon, Tah. Goregaon, District Gondia, till the culmination of the trail.
- d) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- e) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.
- f) The fees of the appointed counsel be quantified as per Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]