



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

CRIMINAL APPLICATION (BA) NO.447 OF 2023

Praful Anna Patil

Vs.

State of Maharashtra, Through Police Station Officer, Ladkhed,
District Yavatmal 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. S. V. Sirpurkar, Advocate for applicant.

Mr. N. R. Rode, APP for respondent No.1/State.

Mrs. Radha M. Mishra, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/03/2024

1. The applicant came to be arrested on 22.12.2022 in connection with Crime No.483/2022 registered with Police Station Ladkhed, District Yavatmal for the offence punishable under Sections 363, 366, 376(2)(i) of the Indian Penal Code and Section 4 and 8 of the Protection of Children from Sexual Offences Act. Initially, the crime was registered on the basis of report lodged by father of the victim on an allegation that his daughter aged about 13 years attended the school and not returned back. On the basis of said report, police initially registered the crime under Section 363 and 366 of the Indian Penal Code.

2. During the investigation, the victim was found along with the accused/applicant and her

statement was recorded wherein she stated that the present applicant induced and kidnapped her and brought her along with him. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Sirpurkar, for the applicant submitted that as far as the allegation is concerned, only allegation is to the extent that the present applicant had taken away the victim along with him. The allegation against the present applicant is that he has taken her forcefully and subjected her for sexual assault. However, the victim herself has joined the company of the present applicant and went along with him. She has not made any grievances that she was forcefully taken by the present applicant. Now, 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 for the State and learned Counsel for the respondent No.2 – victim strongly opposed the application on the ground that victim is only 13 years of age, her consent is not relevant. She was subjected for sexual assault. If the applicant is released on bail, he would tamper with the prosecution evidence and prays for rejection of the application.

5. Having heard the learned Counsel for the applicant and learned APP for the State and learned Counsel for the respondent No.2 – victim, perused the investigation papers. From the investigation papers, it reveals that the victim is only 13 years of age. As per the allegation of the victim, the present applicant took her along with him by threatening her. She was medically examined by the Medical Officer wherein she has narrated the history that she and present applicant were from the same village and there was a friendship between them from last 4 – 5 years and therefore, she went and stayed along with him. Thus, the history narrated by the victim before the Medical Officer is different than her statement. During the medical examination, no injuries are found on her person. The injury on the hymen is also absent. As far as the allegation regarding the sexual assault is concerned, except the statement of the victim at this stage, there is no medical evidence to substantiate the said contention. Moreover, whether the victim was subjected for assault or not is the matter of evidence. The investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required. The only apprehension is raised by the State is that if the present applicant is released on bail, he would tamper with the prosecution evidence. Considering the apprehension raised which can be taken care of by imposing the certain conditions. The application

deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant **Praful Anna Patil** be released on bail in connection with Crime No.483/2022 registered with Police Station Ladheda, District Yavatmal for the offence punishable under Sections 363, 366, 376(2)(i) of the Indian Penal Code and Section 4 and 8 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 enter into the village Rajiv Nagar Bori Arab, till the culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

6. The fees of the appointed Counsel for the respondent No.2 be quantified as per the rules.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)