



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

CRIMINAL APPLICATION (ABA) NO. 316 OF 2024

Rutwik Sudam Banole V/s 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. M.N.Ali, counsel for the applicant.

Mr.N.B.Jawade, APP for the non-applicant/State.

Mrs. C.S.Bhute, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/06/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 114/2024 registered with Police Station Karanja Rural, District Washim for the offence punishable under Sections 363, 366, 376(2)(n) of Indian Penal Code, 1860 and under Sections 4 and 6 of the The Protection of Children from Sexual Offences Act (POCSO), 2012, the applicant approached this Court for grant of pre-arrest bail.

2. The learned counsel for the applicant submitted that the FIR is lodged by the victim, on the allegation that she is aged about 17 years, and she got acquaintance with the present applicant, which resulted in love affair. The applicant has taken her on the promise of marriage and kept her at Chakan, they resided in a rented house, and there was physical relationship between them, as the applicant has subjected her for sexual assault. But the applicant has not

performed marriage with her, she returned and lodged this complaint.

3. He further submitted that the recitals of the FIR itself show that the victim herself has left the house on her own, without informing anybody in the house, and joined the company of the applicant. Thus, it is apparent that there was a love affair between the applicant and the victim. Out of that love affair, she joined the company of the applicant. They stayed in a rented house, but due to some dispute between them, she returned back and lodged the report. He submitted that, considering the physical relationship between them is out of love affair, the custodial interrogation of the present applicant is not required. In view of that, he be protected by granting anticipatory bail.

4. The learned APP and learned appointed counsel strongly opposed the said application, on the ground that the victim is a minor and her consent is not relevant. Considering the fact that, on the promise of marriage, the applicant has subjected her for sexual assault, the custodial interrogation is required. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR. From which, it reveals that there was a love affair between the applicant and the victim. Out of that love affair, the victim herself left the house and joined the company of the accused.

The victim is on the verge of attaining the majority, as they were in love with each other therefore, there was a physical relationship between them. It is also settled that mere breach of promise is not sufficient to attract the offence under Section 376 of the Indian Penal Code. Considering the fact, under which the alleged incident has taken place, the custodial interrogation of the applicant is not required. In view of that, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

- a] In the event of arrest, in connection with Crime No. 114/2024 registered with Police Station Karanja Rural, District Washim for the offences punishable under Sections 363, 366, 376(2)(n) of Indian Penal Code, 1860 and under Sections 4 and 6 of the The Protection of Children from Sexual Offences Act (POCSO), 2012, shall be released on anticipatory bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- b] The applicant shall attend the concerned police station once in a week on Sunday between 10.00 a.m. and 01.00 p.m. and shall cooperate with the investigation agency.
- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- d] The fees of the appointed counsel be quantified as per Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]