



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

CRIMINAL APPLICATION (BA) NO. 537 OF 2024

Sukhdev Laxman Awchar V/s State of Maharashtra

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. K.R.Lule, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/08/2024.

1. The applicant came to be arrested on 18/04/2024, in connection with Crime No. 176/2024, registered with police station Shirpur District Washim for the offence punishable under Section 376, 376(2)(n), 452, 506 of the Indian Penal Code, 1860.

2. As per the accusation against the present applicant is on the basis of the report lodged by the victim, aged about 30 years, she got acquaintance with the present applicant prior to one year, and he used to communicate with her. She further alleged that prior to one year, the present applicant entered her house and subjected her for forceful sexual assault. He also obtained her obscene photographs and threatened her that if she denies the relationship with him, he would make the said photographs viral. On the basis of the said report, the police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that for the last one year, there was a consensual relationship between the present applicant and the victim. As far as the allegations of obtaining obscene photographs are concerned, the mobile phone of the applicant was seized, panchanama was drawn, and the recitals of the panchanama show that, there were no such photographs found in the mobile phone of the present applicant. Thus, considering that, there was a consensual relationship between the applicant and the victim, and now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required, hence, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the victim was subjected for forceful sexual assault by obtaining her obscene photographs, and if he is released on bail, he would tamper with the prosecution evidence.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR as well as the investigation papers. From the investigation papers, it reveals that there was acquaintance between the victim and the present applicant, they used to communicate with each other. There was no previous complaint as to harassment by the present applicant. As far as the allegation regarding the obscene photographs is concerned, the panchanama of the mobile phone shows

that no photographs or any video were seen, which is obscene in nature. Now that the investigation has already been completed and charge-sheet is filed, considering the fact that there was a consensual relationship between them, further incarceration 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 – Sukhdev Laxman Awchar, shall be released on bail, in connection with Crime No. 176/2024, registered with police station Shirpur District Washim for the offence punishable under Section 376, 376(2)(n), 452, 506 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 induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- d] The applicant shall attend proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]