



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

CRIMINAL APPLICATION (BA) NO. 560 OF 2024

Pratik s/o Yashwant Bansod

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Armori, District 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. C. Jaltare, Counsel for applicant.

Mr. N. B. Jawade, APP for non-applicant No.1 /State.

Mr. V. V. Sharma, appointed Counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 20/08/2024

1. The applicant came to be arrested on 29.11.2023 in connection with Crime No.389/2023 registered with Police Station Armori, District Gadchiroli for the offences punishable under Sections 363 and 376(2)(n) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard learned Counsel for the applicant who submitted that initially the crime was registered on the basis of report lodged by the father of the victim alleging that the victim aged about 16 years and 8 months who was studying in 12 standard and was residing along with her grandmother. On 20.11.2023 when he returned home, he has not witnessed his daughter in the home and therefore, he

searched for her and thereafter approached the Police Station and lodged the report against the present applicant.

3. During the investigation, the search of the victim was taken and her statement was recorded. During her statement, it reveals that there was a physical contact between the present applicant and victim and therefore, the crime was registered under Section 376(2)(n) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act. He submitted that from the recitals of the statement of the victim itself shows that there was a love affair between them and out of the love affair, she joined the company of the present applicant and they travelled by public transport and thereafter, stayed together. As far as the physical contact between them is concerned, in first statement she has not narrated about the same. Subsequently, she has stated about the physical relationship between them. He further submitted that even accepting the statement of the victim as it is, it reveals that out of a love affair there was a physical relationship between them. The victim is on the verge of attaining the age of majority. Now the investigation is already completed and chargesheet is filed, further incarceration of the present applicant is not required.

4. Learned APP and learned appointed Counsel for the non-applicant No.2 strongly opposed the application on the ground that victim was below 18 years of age at the time of incident. As far as the consent of the victim is concerned, which is not relevant. In view of that, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that initially crime was registered under Section 363 of the Indian Penal Code against the present applicant. During the investigation, the Investigating Officer has recorded the statement of the victim from which it reveals that out of a love affair, she joined the company of the present applicant and thereafter went along with him. Thus, it is not the case wherein out of lust the victim was subjected for sexual assault, but two teenagers out of a love affair came together and left the company of the parents. Thus, considering the nature of the allegations and considering the fact that investigation is already completed, chargesheet is 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:

ORDER

- (i) The application is allowed.

(ii) The applicant **Pratik s/o Yashwant Bansod** shall be released on bail in connection with Crime No.389/2023 registered with Police Station Armori, District Gadchiroli for the offences punishable under Sections 363 and 376(2)(n) of the Indian Penal Code and under Sections 4 and 6 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 of Armori, Taluka Aarmara, District Gadchiroli, till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses including the victim in any manner.

(v) The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

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

7. The application is disposed.

(URMILA JOSHI-PHALKE, J.)