



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

CRIMINAL APPLICATION (BA) NO. 565 OF 2024

Sagar s/o Ravindra Vaittage 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. K.S.Ghatate, counsel for the applicant.

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

Mr. Aditya Pande, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/08/2024.

1. The applicant came to be arrested on 07/11/2022, in connection with crime No. 145/2019 registered with Police Station Hinganghat District Wardha for the offence punishable under Sections 363, 366(A), 376(2)(n), 376(3) and 506 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children From Sexual Offences Act, 2012.

2. The crime is registered on the basis of a report lodged by the father of the victim girl, on an allegation that his daughter, aged about 15 years, was studying in 8th Standard. On 24/02/2019, he had been to his agricultural field along with his wife, and when he returned at about 1.00 p.m. his daughter was not found at the house. On inquiry, it was revealed to him that the present applicant had kidnapped her on the promise of marriage. On the basis of said report, initially, the crime

was registered under Section 363 of the Indian Penal Code. During the investigation, the investigating officer has recorded the statement of the victim, from which it reveals that, it was the victim who was having a love affair with the present applicant and called him at the bus-stand, and thereafter, they went at Pune and returned to Wardha on the next day. As far as the allegations regarding sexual assault is concerned, the victim has not stated this in her statement. Her supplementary statement was also recorded on 07/03/2019. In the said statement, for the first time, she has alleged that the present applicant has subjected her for forceful sexual assault.

3. Learned counsel for the applicant submitted that, out of a love affair, the victim went along with the present applicant. As far as the physical relationship is concerned, there is no material to show that she was subjected for forceful sexual assault by the present applicant. Now, the investigation is already completed and charge-sheet has already been filed. The trial is not commenced since 2022; the applicant cannot be detained for an indefinite period, considering the manner in which the alleged incident has taken place. Hence, the application deserves to be allowed.

4. Learned APP strongly opposed the said application on the ground that the victim is only 15 years of age, at the time of the incident. Her consent is not relevant, and the present applicant has kidnapped her on the promise of

marriage and subjected her for sexual assault. Learned APP further submitted that three witnesses have already been examined and the trial is already commenced. Considering the same, the application deserves to be rejected.

5. Learned counsel for the victim also endorsed the same contention and prays for rejection of the application.

6. After hearing learned counsel for the applicant, learned APP, and learned appointed counsel for victim, perused the investigation papers. From which, it reveals that it was the victim who has called the applicant at the bus stand, thereafter, they travelled by public transport to Pune and thereafter again returned to home. Initially, the victim has not alleged about the sexual assault, but subsequently, in a subsequent statement, she has made allegation regarding sexual assault by the present applicant. Even considering the same, it reveals that, out of a love affair, there was a physical relationship between them. It is not the case that the present applicant has subjected her for sexual assault out of lust, but the two teenagers were attracted to each other, out of a love affair, and there was a physical relationship between them.

7. Moreover, the investigation is completed and charge-sheet is filed, though the applicant has been behind bars since the date of his arrest, and the Roznama, which is on record, shows that there is no progress in the trial.

Now, it is well settled that the applicant cannot be kept behind bars for an indefinite period. Considering now, the investigation is completed and charge-sheet has been filed, further incarceration of the present applicant is not required, and the circumstances under which the alleged incident has taken place, the applicant has made a case for grant of bail. Accordingly, I proceed to pass the following order;

- a] The criminal application is allowed.
- b] The applicant – Sagar Ravindra Vaittage, shall be released on bail, in connection with crime No. 145/2019 registered with Police Station Hinganghat District Wardha for the offence punishable under Sections 363, 366(A), 376(2)(n), 376(3) and 506 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children From Sexual Offences Act, 2012, 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 Hinganghat, District Wardha except attending the proceedings before the trial Court.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

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

[URMILA JOSHI-PHALKE, J.]