



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

CRIMINAL APPLICATION (BA) NO.569 OF 2024

Shishupal s/o Sonidas Pawar

Vs.

State of Maharashtra, Through Police Station, Seloo, Wardha
District Wardha 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. Arjun Deshmukh, Counsel h/f Mr. Rajnish Vyas, Counsel for applicant.
Mr. S. S. Hulke, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/08/2024

1. The applicant came to be arrested on 19.05.2023 in connection with Crime No.340/2023 registered with Police Station, Seloo, District Wardha, for the offences punishable under Sections 363 and 376 of the Indian Penal Code and under Sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime was registered initially on the basis of report lodged by the mother of the victim who alleged that on 16.05.2023 she had been to her agricultural field along with her husband and when she returned home, at that time her daughter – victim was not at home, therefore, she searched for her and she came to know that she was seen along with somebody leaving the village and therefore, she suspected that the present applicant has kidnapped

her and taken her along with him. On the basis of the said report, police have registered the crime under Section 363 of the Indian Penal Code.

3. During the investigation, the statement of the victim was recorded from which it reveals that the applicant has subjected her for sexual assault and therefore, the crime was registered under the provisions of Protection of Children from Sexual Offences Act as well as under Section 376 of the Indian Penal Code.

4. Learned Counsel for the applicant submitted that from the statement of the victim it reveals there was a love affair between the victim and the present applicant, out of that love affair, they both left the home and stayed together and out of the love relationship, there was a physical relationship between them. As far as further incarceration is concerned, it is not required. Now, the investigation is already completed and charge-sheet is already filed.

5. Learned APP strongly opposed the said application on the ground that the victim was 15 years old at the relevant time and her consent is not relevant if the applicant/accused is released on bail, he would tamper with the prosecution evidence. In view of that, application deserves to be rejected.

6. Though respondent No.2 is served, none appears for the respondent No.2.

7. After hearing the learned Counsel for the applicant and learned APP for the State, perused the statement of the victim from which it reveals that there was a love affair between the victim and the present applicant, out of a love affair, they left the home and stayed together. As far as the physical relationship is concerned, which appears to be out of a love affair. Thus, the facts and circumstances show that out of teenage love affair there was a physical relationship and the victim was not subjected for sexual assault out of lust. Now, the investigation is already completed and charge-sheet is already filed. The applicant cannot be kept behind bar for indefinite period, considering the circumstances under which the alleged incident has taken place, the applicant has made out the case for grant of bail, 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 **Shishupal s/o Sonidas Pawar** shall be released on bail in connection with Crime No.340/2023 registered with Police Station, Seloo, District Wardha, for the offences punishable under Sections 363 and 376 of the Indian Penal Code and under Sections 4, 6 and 17 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 vicinity of Kotamba Pardhi Beda, Taluka Seloo, District Wardha, till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

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

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)