



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.576 OF 2024

(Hanuman @ Maroti Vitthal Bhoyar Vs. The State of Maharashtra and anr.)

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, Advocate for the applicant.
Mr. U.R. Phasate, APP for the State.
Ms A.R. Sharma, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 21, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 28/01/2023 in connection with Crime No.2/2023 registered with Police Station Mangrulpir, District Washim for the offence punishable under Sections 363, 366, 376, 376(2)(n) and 506 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned Counsel for the applicant submitted that initially the crime was registered on the basis of report lodged by the mother alleging that on 31/12/2022 at about 8.30 AM she had been to attend the work and her daughter was alone in the house. When she returned from the work at about 4.00 PM her daughter was not in the house. She searched for her but could not trace her. Thereafter on 01/01/2023 she received the phone call of her daughter from which it reveals that she was along with the present applicant. On the basis of said report,

police have registered the crime initially under Sections 363 and 366 of the Indian Penal Code. Subsequently, the statement of the victim was recorded on the basis of which the crime was registered under Sections 376 and 376(2)(n) of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that out of love affair victim has joined the company of the present applicant and thereafter they stayed together. He submitted that twice he met along with the present applicant and thereafter returned back. Now, the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, he be released on bail.

4. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the application and submitted that the consent of the victim is not relevant being she is below 18 years of age. Now, charges are already framed and trial can be commenced at any time. In view of that, the application deserves to be rejected.

5. It is further submitted that the love relationship is denied by the victim, and therefore, there is no substance in the contention that out of love affair the victim went along with the applicant. The apprehension was also raised that if applicant is released on bail similar type of the occurrence may happen. In view of that, prays for rejection of the application.

6. I have heard learned Counsel for both the parties. Perused the investigation papers. Initially, the crime was registered under Sections 363 and 366 of the IPC. The statement of the victim reveals that she was acquainted with the present applicant who was resident of the same village. The applicant has expressed her that he is having some feelings for her and thereafter called her therefore, she went and subsequently the applicant took her by threatening her and she was subjected for the sexual assault. On perusal of the investigation papers it reveals that out of love affair victim joined the company of the present applicant. Whether willingly she went along with the present applicant or there was a threatening is a matter of evidence. At this stage, considering the investigation is completed and charge-sheet 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 the following order:

(i) The application is allowed.

(ii) The applicant - Hanuman @ Maroti Vitthal Bhoyar in connection with Crime No.2/2023 registered with Police Station Mangrulpir, District Washim for the offence punishable under Sections 363, 366, 376, 376(2)(n) and 506 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of

Children from Sexual Offences Act, 2012, shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall not enter into the vicinity of village Manoli, Taluka Mangrulpir, District Washim till the culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case and not contact with the victim or her relatives in any manner.

(v) The contravention of any of the condition would lead to cancellation of bail

7. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)