



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

CRIMINAL APPLICATION (BA) NO. 582 OF 2024

Gopal s/o Maroti Warkari Vs 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. N.L. Jaiswal, counsel for applicant.

Mrs. Sneha Dhote, APP for non-applicant/State.

Mrs. Jyanti A. Deshpande, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/10/2024.

1. The applicant came to be arrested on 15/02/2024 in connection with Crime No. 127/2024 registered with Police Station Civil Lines, Akola for the offence punishable under Section 376, 376(3), 354, 354(B), 452, 342, 336, 323 and 506 of the Indian Penal Code, 1860 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act,

2. The crime is registered on the basis of a report lodged by the victim girl on an allegation that, at the time of the incident, she was aged about 15 years and two months. On 14/02/2024, she, along with her sister, was at home at the relevant time; she had seen the present applicant roaming around her house. At about 9.00 to 9.30 p.m. when her sister had been in the washroom, at that time, the present applicant entered her house from the backside, shut her mouth, and took her forcefully into an agriculture field and subjected her for forceful sexual assault

by showing some weapon like a knife. On the basis of the said report, police have registered the crime against the present applicant. During the investigation, the investigating officer has visited the alleged spot of incident and drawn the spot panchanama as well as the medical examination was carried out. During the medical examination, injuries are found on the person. After completion of the investigation, the charge-sheet was submitted against the present applicant.

3. Heard learned counsel for the applicant who submitted that there was a love affair between the victim and the present applicant. Out of a love affair, there was a physical relationship. During the investigation, it was revealed that the victim who went along with the applicant. Thus, considering the relationship between the victim and the present applicant, the physical relationship was developed between them. Now, the investigation is already completed and charge-sheet is already filed, in view of that, the applicant be released on bail.

4. Learned APP and learned counsel for the victim strongly opposed the said application and submitted that the statement of the victim, spot panchanama, and the injury on the person of the victim substantiate the allegations that she was subjected for forceful sexual assault. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for State, perused the investigation papers,

from which it reveals that it was the victim who lodged the report among the alleged incidents. After lodging the report, immediately the investigating officer, in presence of the panchas, visited the alleged spot of incident, wherein he observed the grass size regarding the alleged incident at the spot of incident was in a disturbed condition. The medical examination of the victim was also carried out. During the medical examination, it revealed that there are injuries on her chest as well as the injuries on the inner aspect of the right labia minora 0.5 x 0.5 c.m. Thus, not only the external injuries are found during the medical examination, but the injuries on the genital were also found.

6. Considering that the victim is a minor girl, whose consent is not at all relevant. Moreover, there is nothing on record which would suggest that there was a love affair between the present applicant and the victim. Applicant is serving in the Army, considering the position of the present applicant and victim, who is only 15 years old girl, who was subjected for forceful sexual assault, and the prima-facie case is made out. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass the following order;

- a] The criminal application is **rejected**.
- b] The fees of the appointed counsel be quantified as rule.

[URMILA JOSHI-PHALKE, J.]