



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

CRIMINAL APPLICATION (BA) NO. 629 OF 2024

Ajay s/o Rajesh Hatagade

Vs.

State of Maharashtra, Through Police Station Officer, Police Station
Kanhana, District Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. M. Daga, Counsel for the applicant.
Mr. A. V. Palshikar, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/09/2024

1. The applicant came to be arrested on 20.06.2023 in connection with Crime No.388/2023 registered with Police Station, Kanhana, District Nagpur for the offences punishable under Sections 376(2)(f) and 376(2)(n) of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by the victim who is aged about 20 years on an allegation that her uncle was residing near to her house and the applicant is the son of her uncle. The applicant allegedly subjected her for sexual assault by using the force but she has not disclosed the said incident to anybody. Thereafter, her marriage was performed and at the time of marriage, she was pregnant of 27 weeks and 4 days, therefore, her husband suspected her character and on inquiry, she disclosed that she was subjected for

sexual assault by the present applicant. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel Mr. Daga for the applicant who submitted that there was a consensual relationship between the applicant and the victim. The victim is of 20 years old whereas the applicant is 19 years old and by consent they have developed the physical relationship, but as her marriage was performed and this fact came into light, therefore this FIR is lodged by the victim. He submitted that now investigation is completed, charge-sheet is filed, further incarceration of the present is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the applicant has subjected her for forceful sexual assault. The DNA report substantiates the said fact. In view of that, the application deserves to be rejected.

5. Heard both the sides. Perused the investigation papers from which it reveals that there was a consensual relationship between both of them and out of consensual relationship, there was a physical relationship between them which resulted into the pregnancy of the victim. Now the investigation is completed and charge-sheet is already filed therefore, incarceration of the present

applicant is not at all 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 **Ajay s/o Rajesh Hatagade** shall be released on bail in connection with Crime No.388/2023 registered with Police Station, Kanhan, District Nagpur for the offences punishable under Sections 376(2) (f) and 376(2)(n) of the Indian Penal Code, 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 M.G. Nagar Kanhan, Taluka Parshivani, District Nagpur, till the culmination of the trial.

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

6. Thea application is disposed of.

(URMILA JOSHI-PHALKE, J.)