



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

CRIMINAL APPLICATION (BA) NO.766 OF 2024

(Neha Narendra Walke @ Neha Dinesh Vairagade Vs. 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. N.N. Raut, Advocate for the applicant.
Mr. D.V. Chauhan, Public Prosecutor (Sr. Counsel) a/b Ms T.H. Udeshi,
APP for the State.
Mr. S. Lambat, Advocate h/f Ms A.S. Mishrikotkar, Advocate
(appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- OCTOBER 7, 2024.

By this application, the applicant is seeking bail as she came to be arrested on 29/03/2024 in connection with Crime No.91/2024 registered with Police Station Armori, District Gadchiroli for the offence punishable under Sections 366-A, 376(3) and 376(2)(n) of the Indian Penal Code and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of the report lodged by the victim girl on an allegation that she got acquaintance with the present applicant and present applicant used to provide her foodstuffs, cloths and was pampering her. She also promised her that she will perform her marriage and took her along with her and handed over her to the co-accused Gaurav who has subjected her for sexual assault and subsequently also she

has taken her to the another boy and who has also subjected her for sexual assault. On the basis of said report, police have registered the crime against the present applicant. During the investigation, the statement of the victim is recorded under Section 164 of the Cr.P.C. also including the statements of the other witnesses. After completion of the investigation, charge-sheet is filed against the present applicant.

3. Learned Counsel for the applicant invited my attention towards the summery of the charge-sheet and submitted that the summery of the charge-sheet itself shows that there is no material collected during the investigation to show the involvement of the present applicant as far as abetment and inducement on her part is concerned. He also submitted from the statement of 164 that there is no reference as to the name of the present applicant and allegation that it was the present applicant who induced her or abeted her to commit such offence. He submitted that the applicant is the sister of co-accused Badal and she has objected for the love relationship between the father and the present informant, and therefore, there was a quarrel between them and that is the reason she is implicated in the alleged offence. He submitted that now investigation is completed, charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, she be released on bail.

4. Mr. D.V. Chauhan, learned Public Prosecutor (Senior Counsel) along with Ms Udeshi, learned APP submitted that the recitals of the FIR itself shows the act of the present applicant is not to the extent of inducement or the abetment but to take the victim along with her and handing over to her to the various persons who subjected her for sexual assault. The victim is only 14 years and 9 months girl who is of a tender age and considering the fact that she was subjected for the sexual assault at the inducement of the present applicant itself is sufficient to show the gravity of the offence. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that there was a love affair between the victim and one Badal and present applicant is the sister of said Badal. As far as the inducement at the hands of the present applicant is concerned in initial statement victim has alleged that present applicant has induced her but in a subsequent statement i.e. the statement under Section 164 of Cr.P.C. she has even not referred the name of the present applicant and from their statement it reveals that there was a love affair between her and the said Badal and said Badal has subjected her for sexual assault on multiple occasions. Thus, considering the statement under Section 164 fortifies the submission made by the learned Counsel for the applicant appears to have some substance.

Considering now investigation is completed and charge-sheet is filed, further incarceration of the 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 - Neha Narendra Walke @ Neha Dinesh Vairagade in connection with Crime No.91/2024 registered with Police Station Armori, District Gadchiroli for the offence punishable under Sections 366-A, 376(3) and 376(2)(n) of the Indian Penal Code and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on executing PR. 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 Bardi, Taluka Armori, District Gadchiroli, till culmination of the trial.

(iv) The applicant shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.

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

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

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

6. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*