



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

CRIMINAL APPLICATION (BA) NO. 806 OF 2024

Sheikh Rashid Sheikh Asif 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. R.M. Daga, counsel for the applicant.

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

Mr. Saurabh Singha, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 04/10/2024.

1. The applicant came to be arrested on 04/05/2024, in connection with Crime No. 315/2024 registered with Police Station Jaripatka, Nagpur for the offence punishable under Sections 376(1), 504, 506 of the Indian Penal Code, 1860 and Sections 4,8, 12 of the Protection of Children from Sexual Offences Act, 2012.

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 16 years, and she got acquaintance with the present applicant. The present applicant took her for roaming and subjected her for forceful sexual assault, though she resisted the act of the applicant. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned counsel for the applicant, who submitted that the history narrated by the victim and her statement under Section 164 of Cr.P.C. itself reveals that

there was a love affair between the victim and the present applicant, and out of the love affair, there was a physical relationship between them. Now, investigation is completed and charge-sheet is filed, further incarnation of the present applicant is not required. In view of that, he be released on bail.

4. The learned APP and learned counsel for the victim strongly opposed the said application, on the ground that the victim was subjected for forceful sexual assault by the present applicant, and therefore, she approached the police station and lodged the report. It is submitted that her consent is not relevant, and therefore, even if it is accepted that she has consented for the act, the applicant has committed the offence under the provisions of the Protection of Children from Sexual Offences Act.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers as well as the photographs shown by the learned counsel for the applicant. From the said photographs, it reveals that there was a love affair between the victim and the present applicant. The history narrated by the victim and her statement under Section 164 of Cr.PC, from which it reveals that, out of the love affair, she went along with the accused. The history narrated before the Medical Officer sufficiently shows that out of a love affair, there was a physical relationship between them. Thus, this is not the case that the victim was subjected for sexual assault out of lust, but

the two youngsters came together out of attraction, and there was a physical relationship between them. Considering the investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required, and the application deserves to be allowed. Accordingly, I proceed to pass the following order;

- a] The criminal application is **allowed**.
- b] The applicant- ***Sheikh Rashid Sheikh Asif***, shall be released on bail, in connection with Crime No. 315/2024 registered with Police Station Jaripatka, Nagpur for the offence punishable under Sections 376(1), 504, 506 of the Indian Penal Code, 1860 and Sections 4,8, 12 of the Protection of Children from Sexual Offences Act, on executing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- d] The applicant shall not inter in the jurisdiction of the Jaripatka Police Station, till culmination of the trial.
- e] The applicant shall attend the proceedings before the Special Court without seeking any

exemption unless there are exceptional circumstances.

- f] The fees of the appointed counsel be quantified as per Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]