



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

CRIMINAL APPLICATION (BA) NO. 900 OF 2024

Anil Tarachand Sondawle

Vs.

State of Maharashtra, Through Police Station Officer, Umred, District
Nagpur and another

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

Court's or Judge's orders

Ms. P. S. Kosare, Counsel for the applicant.
Ms. Kavita Bhongde, APP for non-applicant No.1 /State.
Ms. R. K. Swami, appointed Counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/11/2024

1. The applicant came to be arrested on 28.04.2024 in connection with Crime No.204/2024 registered with Police Station Umred, District Nagpur for the offences punishable under Sections 376, 376(2)(n), 376(2)(f), 376(2)(j), 376D and 506 read with Section 34 of the Indian Penal Code and Sections 4, 6, 8, 10 of the Protection of Children from Sexual Offences Act.

2. The Crime is registered on the basis of report lodged by the victim aged about 16 years and 9 months. The applicant is a relative of the victim. In May 2022, when the victim had been to the applicant's house during vacation, he allegedly closed the door of the room and subjected her for the forceful sexual assault. It is further alleged that not

only the present applicant, but his son also forced her and had sexual intercourse with her, which resulted in her pregnancy. On the basis of the said report, police have registered the crime against the present applicant and the other co-accused.

3. Heard learned Counsel for the applicant who submitted that as far as the allegations are concerned, which are false one and the said allegations are to be proved on the basis of the evidence. Now, the applicant is behind bar from last seven months and the investigation is already completed and charge sheet is filed, further incarceration of the present applicant is not required. There are no criminal antecedents against the present applicant. Considering all these aspects, the applicant be released on bail.

4. Learned APP for the State and learned appointed Counsel for the non-applicant No.2 strongly opposed the said application on the ground that a minor girl of 16 years and 9 months is subjected for the sexual assault by the present applicant, who is aged about 45 years. They further submitted that the allegation is also substantiated by the medical certificate, as the medical certificate shows that there was a hymeneal tear which was irregular and 1, 3, 8 O' Clock position which sufficiently shows that she was subjected for the sexual assault. Moreover, due to the sexual assault on her, she was pregnant of one and half months.

The DNA reports are yet to be received. Considering all these aspects and the *prima facie* case, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant, learned APP for the State and learned appointed Counsel for the non-applicant No.2, perused the investigation papers from which it reveals that 16 years and 9 months girl was subjected for the forceful sexual assault by the present applicant as well as the co-accused. As far as the co-accused is concerned, in the statement of Section 164 of Cr.P.C., the victim has stated that there was a love affair between her and the co-accused and considering these aspects and considering the age of the another co-accused, who is child in conflict with law is released on bail. As far as the present applicant is concerned, the statement of victim is substantiated by the medical certificate. Moreover, a DNA report is yet to be received, which would definitely be the material evidence to ascertain who is the biological father of the child which is in the womb of the victim. Considering the *prima facie* case against the present applicant at this stage, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

(i) The application is rejected.

(4)

32.ba.900.2024.R.

(ii) The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

Sarkate