



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

CRIMINAL APPLICATION (BA) NO. 906 OF 2024

Manoj s/o Tukaram Shingote

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Jalgaon Jamod, District Buldhana and another

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

Court's or Judge's orders

Mr. M. V. Rai, Counsel for the applicant.

Mr. K. R. Lule, APP for non-applicant No.1 /State.

Mr. Aaditya A. Pande, appointed Counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/12/2024

1. The applicant came to be arrested on 23.04.2022 in connection with Crime No.204/2022 initially registered under Section 363 and subsequently under Sections 366, 376, 376(2)(n) and 376(3) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. Initially, the crime was registered on the basis of report lodged by the father of the victim girl on an allegation that his daughter was taking education and studying in 9th standard. He received the information that the present applicant was contacting his daughter and therefore, he convinced him that he should not contact as there is a vast difference between the age of the victim and his age.

Thereafter also the applicant was following the victim girl and subsequently, he had kidnapped the victim girl. On the basis of the said report, police have registered the crime against the present applicant, initially, under Section 363 of the Indian Penal Code. During the investigation, the victim's statement was recorded wherein it revealed that present applicant on the promise of marriage, took her along with him and subjected her for the forceful sexual assault. On the basis of the said statement, the Sections 376, 376(2)(n) of the Indian Penal Code are added.

3. Heard learned Counsel for the applicant who submitted that it was the victim, who went along with the present applicant at her own accord and with false allegation, this FIR is lodged against the present applicant. He submitted that in addition to the merits of the case, since 23.04.2022 the applicant is behind bar, there is no progress in the trial and the applicant is incarcerated in the jail. He cannot be kept behind the bar for an indefinite period. He submitted that the report submitted by the learned Sessions Court also shows that it was the prosecution, who has taken 6 to 8 months to file reply on the bail application. Thereafter, on various occasions, the accused was not produced even though charges were not framed against the present applicant. Considering the same, the right of the present applicant as to the speedy trial enshrined under

Article 21 of the Constitution of India is affected, in view of that he be released on bail.

4. Learned APP and learned appointed Counsel for the victim strongly opposed the said application and submitted that the applicant is aged about 26 years old and the victim is only 13 years of old. There is a vast difference in the age group therefore, the story narrated by the applicant as to the love affair cannot be accepted. It is submitted that the charge will be framed at any point of time and the trial can be commenced. Considering the nature of the offence and 13 years girl who was subjected for the sexual assault, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, as far as the involvement of the present applicant in the alleged offences are concerned which reveals from the investigation papers. The another ground raised by the applicant that there is a delay in trial and therefore, the right of the present applicant enshrined under Article 21 of the Constitution of India is affected as to the speedy trial. Therefore, the status report from the Sessions Court was called and from the status report, it reveals that merely because the application for bail was pending and the accused No.2 sometimes was not produced and charges are not framed. It reveals that the trial was not prolonged merely on account of

the accused but the trial was prolonged as the prosecution has taken a longer time to file reply on the bail application as well as charges are not framed. Now in consistent decision of the Hon'ble Apex Court has considered that delay in trial in serious crime also entitles the applicant/accused for bail. In the case of **Javed Gulam Nabi Shaikh vs. State of Maharashtra and another in criminal Appeal No.2787/2024 decided on 03.07.2024**, the Hon'ble Apex Court considered the catena of decisions including **Hussainara Khatoon Vs. Home Secretary State of Bihar** reported in (1980) 1 SCC 81 and **Kadra Pahadiya and Ors. Vs. State of Bihar** reported in **(1981) 3 SCC 671** wherein it is observed that "The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from poorer and weaker sections of the society, not versed in the ways of law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But we cannot disentitle an accused from complaining of infringement of his right to speedy trial on the ground that he did not ask for or insist upon a speedy trial."

6. In another decision in **Union of India Vs. K. A. Najeeb** reported in **(2021) 3 SCC 713** wherein also in para no.16 it is observed by the Hon'ble Apex Court that "This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee Representing Undertrial Prisoners Vs. Union of India, reported in (1994) 6 SCC 731 wherein it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. The same ratio is laid down in another decision that **Angela Harish Sontakke Vs. State of Maharashtra** reported in **(2021) 3 SCC 723**, **Sagar Tatyaram Gorkhe Vs. State of Maharashtra** reported in **(2021) 3 SCC 725** and **Shaheen Welfare Association vs. Union of India** reported in **(1996) 2 SCC 616**.

7. Thus, in catena of decisions, the right of the accused of speedy trial is identified by the decisions of the Hon'ble Apex Court. Thus, considering the same, the applicant has made out a case for grant of bail. In view of that, I proceed to pass following order:

ORDER

- (i) The application is allowed.

(ii) The applicant **Manoj s/o Tukaram Shingote** shall be released on bail in connection with Crime No.204/2022 registered with Police Station Jalgon Jamod District Buldhana for the offences punishable under Sections 363, 366, 376, 376(2)(n) and 376(3) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 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 village Vadgaon Gad, Taluka Jalgaon Jamod, District Buldana, till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either physically or through electronic media.

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

(vi) The breach of the single condition imposed by this Court would lead to the cancellation of the bail.

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

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)