



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

CRIMINAL APPLICATION (BA) NO. 894 OF 2024

Nilesh s/o Gautam Upare 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. Mayank Yadav, counsel h/f Mr. M.V. Rai, counsel for applicant.
Mr. N.B. Jawade, APP for non-applicant/State.
Ms. C.S. Bhute, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 23/10/2024.

1. The applicant came to be arrested on 13/03/2024, in connection with Crime No. 194/2024 registered with Police Station Rajura, District Chandrapur for the offences punishable under Sections 376(1), 450 and 506 of the Indian Penal Code, 1860 and under Sections 4 and 6 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, alleging that on 12/03/2024, when she was changing her clothes behind the curtain, the present applicant entered the house and forcefully subjected her for the sexual assault. On the basis of said report, police have registered the crime against the present applicant.
3. Learned counsel for the applicant submitted that there was a love affair between the victim and the present applicant, and out of that love affair, there was a physical relationship between them. The victim is on the verge of

attaining the age of majority, and two young persons come together out of the attraction against each other, and there was a physical relationship developed between them.

4. Learned APP and learned counsel for the victim strongly opposed the said application on the ground that the statement of the victim nowhere reflects that there was a love affair between them, and the present applicant has subjected her for sexual assault by threatening her. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for State, perused the investigation papers. From which it reveals that the victim has narrated the history report before the medical officer, that there was a love affair between her and the present applicant, and they developed the sexual relationship. From the statement of the victim and brother, it also reveals that the brother has witnessed the actual incident, and thereafter, the FIR came to be lodged. Now considering that the investigation is already completed, and charge-sheet is filed, further incarceration of the 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 – *Nitesh s/o Gautam Upare*, shall be released on bail, in connection with Crime No. 194/2024 registered with Police

Station Rajura, District Chandrapur for the offences punishable under Sections 376(1), 450 and 506 of the Indian Penal Code, 1860 and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, 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, including the victim, either physically or through electronic media, by communicating with her.
- d] The applicant shall attend the proceedings before the Special Court without seeking any exemptions unless there are exceptional circumstances.
- e] The applicant shall not enter into the vicinity of Rajura District Chandrapur till the culmination of the trial.
- f] The fees of the appointed counsel be quantified as per Rule.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]