



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

CRIMINAL APPLICATION (BA) NO.930 OF 2024

Hanumantu s/o Dhobi Kohachale
Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Jivit
District Chandrapur 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. A. D. Hazare, Counsel for the applicant.
Mr. H. D. Dubey, APP for non-applicant no.1 /State.
Ms. Deepali Patil Sahare, appointed Counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 13/11/2024

1. The applicant came to be arrested on 21.11.2023 in connection with Crime 126/2023 registered with Police Station, Jivti, District Chandrapur for the offences punishable under Sections 376, 376(2)(n) and 376(3) of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act.

2. Heard learned Counsel for the applicant who submitted that initially, the crime was registered on the basis of report lodged by the mother of the victim girl, who alleged that on 11.11.2023 she inquired with her daughter aged about 15 years and 2 months as she has not received her menstrual period and on that inquiry, the victim disclosed that she was subjected for the sexual assault by the

present applicant. On the basis of the said report, police have registered the crime against the present applicant.

3. He submitted that there was a love affair between the victim and the present applicant. As far as the sexual assault is concerned, now the applicant is excluded to be the biological father of the child which was conceived by the victim. He submitted that the statement of the victim shows that she was subjected for the sexual assault on the promise of marriage by the present applicant. He submitted that considering the inconsistent statement of the victim, which was recorded by the police as well as the history narrated by her before the Medical Officer, which shows that there was a love affair between the applicant and the victim. However, as far as the sexual assault is concerned, which is not established by the prosecution as the DNA report nowhere supports the case of the prosecution, as the applicant excluded to be the biological father of the baby of the victim. Now, the investigation is already completed and charge-sheet is filed, his further incarceration is not required. In view of that, he be released on bail.

4. Learned APP and learned appointed Counsel for the non-applicant No.2 strongly opposed the said application and submitted that considering the victim is a minor, who was subjected for sexual

assault, her consent is not relevant. The application deserves to be rejected.

5. After hearing both the sides and on perusal of the investigation papers, it reveals that after the registration of the FIR, the victim was referred for the medical examination. The history narrated before the Medical Officer by the victim is of a love affair. Thereafter, her statement was recorded wherein she has stated that on the promise of marriage, she was subjected for the sexual assault by the present applicant on multiple occasions, and due to the sexual assault by the present applicant, she was pregnant. The DNA reports were obtained by the Medical Officer and forwarded for the DNA examination, however, during the DNA examination, the present applicant was excluded to be the biological father of the baby delivered by the victim. Thus, considering the nature of the evidence and considering the fact that, now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. The application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Hanumantu s/o Dhobi Kohachale** shall be released on bail in connection with Crime No.126/2023 registered with Police Station, Jivti, District Chandrapur for the offences punishable under Sections 376,

376(2)(n), 376(3) of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, on executing PR Bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of village Mahapandharwani, Taluka Jivti, District Chandrapur, till the culmination of the trial.

(iv) The applicant shall furnish his address and address proof where he is intending to reside after he is released on bail.

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

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

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

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)