



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.943 OF 2024

(Rakesh s/o Ganpat Shendre Vs. The State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. VR. Borkar, Advocate for the applicant.
Mr. K.R. Lule, APP for the State.
Mr. V. Sharma, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- NOVEMBER 14, 2024

By this application, the applicant is seeking bail as he came to be arrested on 01/06/2024 in connection with Crime No.392/2024 registered with Police Station Ballarshah, District Chandrapur. Initially, the offence registered under Section 363 of IPC and subsequently Section 376(2)(n) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. Initially, the crime was registered on the basis of the report lodged by the mother of the victim on an allegation that on 15/04/2024 she received a phone call from the mobile No.7020792907 on which she was informed that her daughter has to appear for the examination and on appearing for the examination she can get the amount of Rs.50,000/- as a reward, therefore, her daughter has left and subsequently she didn't returned back. On the basis of the said report, police have registered the crime against the present applicant.

3. During investigation, the victim was found along with the present applicant. The statement of the victim was recorded as well as the statement of the friend of the victim was also recorded from which it reveals that the victim was subjected for the sexual assault by the present applicant.

4. Learned Counsel for the applicant submitted that there was a love affair between the victim and the present applicant. Out of that love affair victim has left the house and joined the company of the present applicant and they stayed together and out of love affair as they attracted towards each other there was a physical relationship developed between them. Now, investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, he be granted bail.

5. Learned APP strongly opposed the application and submitted that the victim is only 15 years of age and her consent is not relevant. In view of that, the application deserves to be rejected.

6. Learned Counsel for the victim strongly opposed the application and submitted that victim is only 15 years of age whereas the applicant is 29 years old and grown up man. He was fully aware about the age of the victim then also he has taken the victim along with him and subjected her for the sexual assault. Considering the same, the application deserves to be rejected.

7. I have heard learned Counsel for both the parties and perused the investigation papers, it reveals that it was the victim who has left her parents house and joined the company of the present applicant. The history narrated before the Medical Officer shows that there was a love affair between her and the present applicant and out of the said love affair she joined the company of the present applicant. The statement of the friend of the victim also discloses about the love affair between the victim and the present applicant. Admittedly, the consent of the victim is not relevant but considering now the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant - Rakesh s/o Ganpat Shendre in connection with Crime No.392/2024 registered with Police Station Ballarshah, District Chandrapur for the offence punishable under Sections 363 and 376(2)(n) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on executing P.R. bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(iv) The applicant shall not enter into the vicinity of village Itoli, Taluka Ballarpur, District Chandrapur till culmination of the trial.

8. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*