



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

CRIMINAL APPLICATION (BA) NO.983 OF 2023

Prashant s/o Ramdas Thakre

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Wani,
District Yavatmal 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. S. Dhore, Advocate for applicant.

Mr. U. R. Phasate, APP for respondent/State.

Ms. F. N. Haidari, appointed advocate for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 11/03/2024

1. The applicant came to be arrested on 04.07.2023 in connection with Crime No.626/2023 registered with Police Station Wani, District Yavatmal for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. The accusation against the present applicant is on the basis of report lodged by the victim who is aged 16 years, on an allegation that prior to one year of lodging of the FIR, when her parents were not at her home, the present applicant came at her home, and forcefully subjected her for sexual assault. The said act is repeated by the present applicant in the absence of her parents. As she was threatened by the present applicant, she has

not disclosed the said incident to anybody. Thereafter, it reveals that she is pregnant and therefore, she was taken to the hospital and it revealed that she is having pregnancy of 20 weeks. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel Mr. Dhore for the applicant. He submitted that on the basis of false allegation, the present applicant is implicated in the alleged offence. He further submitted that now the investigation is completed and charge-sheet is filed. The samples of the present applicant as well as the deceased for DNA examination are already obtained. The DNA report is yet to be received. There is no possibility of disposal of the trial in a near future. Considering the nature of the crime, further incarceration of the present applicant is not required. In view of that, the applicant be released on bail.

4. Learned APP and learned appointed Counsel for the respondent No.2 strongly opposed the application on the ground that a 16 years girl was subjected for sexual assault by the applicant, who is a married person, which resulted into to the pregnancy of the victim. If the applicant is released on bail, he would tamper with the prosecution evidence. It is further submitted that a small girl was subjected for sexual assault by a married person due to which, she was burdened carrying the pregnancy

which affected her mental as well as physical ability. Considering that the applicant is also the resident of the same village and there is every apprehension that if the applicant released on bail, he would tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. The crime is registered on the basis of report lodged by the victim girl, who is at the time of incident 16 years of age. From the allegation it reveals that when her parents were not at home, the present applicant came at her house and subjected her for sexual assault. From the statement of the victim, it reveals that she was referring the present applicant as 'Mama'. The statement reveals that though she opposed the act of the present applicant, the applicant forcefully subjected her for sexual assault. It further reveals that said act is repeated by the present applicant on several occasions, which resulted into her pregnancy. The samples for DNA examinations are obtained. The DNA report is yet to be received. The medical report of the victim shows that she is subjected for sexual assault.

6. Considering the prima facie case it is the present applicant, who is a married person and subjected the small girl for sexual assault to fulfill his

desire. The application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

1. The application is rejected.
2. The fees of the appointed Counsel be quantified and paid as per rules.

(URMILA JOSHI-PHALKE, J.)