



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

CRIMINAL APPLICATION (BA) NO.1011 OF 2024

(Ankush a.k.a. Shrikrushna Shivaji Doifode Vs. 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

Ms I.V. Jaiswal, Advocate for the applicant.
Mr. N.B. Jawade, APP for the State.
Mr. R.S. Bhalerao, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 16, 2024.

Heard.

2. By this application, the applicant is seeking bail as he came to be arrested on 13/04/2024 in connection with Crime No.95/2024 registered with police station Sakharkheda, District Buldhana for the offence punishable under Sections 363, 376(3), 114 and 366A of the Indian Penal Code and Sections 4, 6, 8, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012.

3. The crime is registered on the basis of report lodged by the father of the victim girl on an allegation that victim aged about 14 years had left the house on 10/04/2024 and not returned back. She has also carried the mobile phone. On the basis of the said report, police have registered the crime against the present applicant. The present applicant suspecting that he has kidnapped the victim girl. During investigation, the victim was chased

along with the present applicant, and therefore, present applicant was arrested. The statement of the victim girl shows that the applicant has contacted her and expressed that he wants to marry with her and took her along with him and subjected her for the sexual assault. On the basis of the said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that there was a love affair between the victim and the present applicant and out of love affair she joined the company of the accused and there was a physical relationship between them. Now, investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required.

5. Learned APP and learned Counsel for the victim strongly opposed the application on the ground that the nature of the offence and the circumstances under which the victim went along with the applicant is required to be looked into. It was the present applicant and the other co-accused who took the victim on motorcycle and forcefully taken her and thereafter present applicant subjected her for the sexual assault. Victim is only 14 year of age, her consent is not relevant. The statement recorded under Section 164 of Cr.P.C. also shows that there was a force used by the present applicant to take her and thereafter the co-accused was arrested and the

applicant again took her in a forest area. Thus, considering the manner in which the victim was taken by the present applicant with intention to commit such type of offence. It is further submitted by the learned APP that when accused was on a bail in another crime, he has committed the present crime. There are criminal antecedents against him. Considering the same, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the victim is only 14 years of age. Her consent is not relevant. As far as the statement of the victim which shows that it was the present applicant who took her along with him by promising her for marriage and thereafter subjected her for the sexual assault. Considering the age of the victim girl, admittedly, her consent is not relevant. Her statement under Section 164 of Cr.P.C. is also relevant wherein she stated that force was used by the present applicant to take her along with him. The crime chart filed on record by the learned APP also shows that when he was on a bail in Crime No.303/2021 he has committed the present offence. Thus, considering the nature of the offence though investigation is completed there is likelihood of tampering of the witnesses by the present applicant. In view of that, the application deserves to be rejected.

7. The application is rejected accordingly.
8. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*