



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

CRIMINAL APPLICATION (BA) NO.1003 OF 2023

(Sukanth Shailen Roy 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. D.R. Galande, Advocate for the applicant.
Ms Sharma, APP for the State.
Mr. Raju Kadu, Advocate for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- APRIL 22, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 23/03/2022 in connection with Crime No.46/2022 registered with Police Station Chamorshi, District Gadchiroli for the offence punishable under Sections 363, 366, 366(A), 376(2)(i), 376(2)(n), 506, 109 read with Section 34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicant is on the basis of report lodged by the victim on an allegation that she was kidnapped by the co-accused and subjected her for sexual assault forcefully. As per her allegation, when she was taken along with him, present applicant asked her to perform the marriage with the co-accused Subrato and accordingly when the co-accused

performed marriage with her in the temple present applicant was present. Thereafter she was taken in the house of one Sarpanch of village Narendrapur wherein she was subjected for sexual assault by the co-accused. As far as the allegation against the present applicant is concerned he was present when the co-accused has performed the marriage with the victim who is minor of 14 years and the allegation against the present applicant is that he asked her to perform the marriage with the co-accused. Except this statement, there is no other allegation or no role is attributed to the present applicant. The co-accused namely Tapas Vinay Haldar and Videsh s/o Chandicharan Shaha are already released on bail. The similar role is attributed to the present applicant. The applicant is behind bar since 23/03/2023. In view of that, he prays for grant of bail.

3. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the application on the ground that considering the nature of the allegation that 14 years girl was subjected for sexual assault forcefully and present applicant has assisted or instigated and thereby committed an offence of abetment, and therefore, his application deserves to be rejected. It is further submitted by the learned Counsel for non-applicant No.2 that there are criminal antecedents against the present applicant and prays for rejection of the application.

4. I have heard learned Counsel for both the parties. Perused the recitals of the FIR and all the investigation papers from which it reveals that the victim was 14 years old girl at the time of incident. She was taken by the co-accused in the vehicle and present applicant was also present at the relevant time. As far as the allegation against the present applicant is concerned which is only to the extent that he asked the victim to perform the marriage with the co-accused. Except this bare statement there is no other material to connect him with the alleged offence. Moreover, now investigation is completed, charge-sheet is filed. Further incarceration of the present applicant is not required. The co-accused to whom similar role is attributed is already released on bail by this Court as well as the Sessions Court. Considering the same, 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 – Sukanth Shailen Roy in connection with Crime No.46/2022 registered with Police Station Chamorshi, District Gadchiroli for the offence punishable under Sections 363, 366, 366(A), 376(2)(i), 376(2)(n), 506, 109 read with Section 34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual

Offences Act, 2012, be released on bail on his executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall not enter into the territorial limits of village Vikaspalli, Taluka Chamorshi, District Gadchiroli, except for the trial.

(iv) The applicant shall provide his address along with name of nearby police station which he shall attend on 1st and 16th day of every month in between 10.00 a.m. to 12.00 noon, till culmination of trial, except the day of the trial.

(v) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

5. The application stands disposed of.

(URMILA JOSHI-PHALKE, J.)