



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

CRIMINAL APPLICATION (BA) NO. 1095 OF 2024

Pradip @ Ashish Chandrakumar Nagpure Vs State Of Maharashtra and another.

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

Court's or Judge's Order

Ms. M.M. Muley, counsel for applicant.

Ms. T.H.Udeshi, APP for non-applicant/State.

Mr. R.R. Maddalkwar, counsel (appointed) non-applicant No.2.

Mr. R.R. Rajkarne, counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/12/2024.

1. Learned counsel Mr. R.R. Maddalwar, was appointed to represent the non-applicant No.2/Victim, however learned counsel Mr. R.R. Rajkarne filed his affidavit for victim. Therefore, Mr. R.R. Maddalwar, learned appointed counsel is discharged.

2. By by this application, the applicant is seeking bail under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS), in connection with Crime No. 252/2024 registered under Section 363, 366A, 376, 376(2), 376(2)(N), 504 of the Indian Penal Code, 1860 and Section 4 of the Prevention of Children from Sexual Offences Act.

3. Heard learned counsel for the applicant, who submitted that the crime is registered on the basis of a report lodged by father of the victim girl on an allegation that his daughter, aged about 16 years and 10 months,

studying in 11th standard, has left the house on 22/03/2024 and not returned back. On the basis of the said report, police have registered the crime initially under Section 363 of the Indian Penal Code. During the investigation, the victim was traced, and her statement was recorded. From which it reveals that there was a love affair between her and the present applicant, and out of the love affair, there was a physical relationship with the present applicant. She submitted that though the victim is below 18 years of age and her consent is not relevant, considering the love affair, there was a physical relationship, and now investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required, in view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the consent of the victim is not relevant and the applicant has taken her on the promise of marriage and subjected her for sexual assault, in view of that, the application deserves to be rejected.

5. Learned counsel for the victim has also reiterated the said contention and submitted that the victim is below 18 years of age, her consent is not at all relevant. There was inducement at the hands of the present applicant, and therefore, she went along with him. As far as her statement is concerned, though it shows that there was a love affair, considering the tender age of the

victim and her consent is not relevant, the prayer of the applicant deserves to be rejected.

6. After hearing both sides and on perusal of the investigation papers, especially the statement of the victim, which shows that she got acquaintance with the present applicant and thereafter they communicating with each other. The love relationship was developed between them, and the said relationship was opposed by her parents. Therefore, she went along with the present applicant. She further stated that out of love affair, there was a physical relationship between them. Thus, her statement shows that the two teenagers, i.e. the applicant, who is aged about 21 years, and the victim, who is aged about 16 years and 10 months, fall in love, and out of that love relationship, the physical relationship was developed between them. Admittedly, the consent of the victim is not relevant, the act of physical relationship was developed out of love affair, and it is not the case that the victim was subjected for the sexual assault out of lust. Considering now the investigation is completed and the charge-sheet is filed and the applicant has made out a case for grant of bail. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

a] The criminal application is allowed.

b] The applicant- *Pradip @ Ashish Chandrakumar Nagpure*, shall be released on

bail, in connection with Crime No. 252/2024 registered under Section 363, 366A, 376, 376(2), 376(2)(N), 504 of the Indian Penal Code, 1860 and Section 4 of the Prevention of Children from Sexual Offences Act, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into the vicinity of Turkamari Tah. Hingna, District Nagpur till culmination of the trial.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case, either physically or through electronic media.
- e] The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]