



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

CRIMINAL APPLICATION (BA) NO.1055 OF 2023

(Arvind @ Sanket Surendra Pardhi 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

Mr. D.R. Bhoyar, Advocate for the applicant.
Mrs. M.H. Deshmukh, APP for the State.
Ms J.A. Deshpande, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 1, 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 19/04/2023 in connection with Crime No.58/2023 registered with Police Station Dahegaon (Gosavi), Taluka Seloo, District Wardha for the offence punishable under Sections 363, 376(3), 354(D)(1)(2) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of report lodged by mother of the victim girl on an allegation that on 18/04/2023 she along with the victim was sleeping in the house, when she woke up in the morning she could not find her daughter in the house, and therefore, she searched for her. But the victim is not traced, and therefore, she lodged the missing report. On the basis of said report, police have registered the crime. During the investigation, the victim was traced along with the present

applicant. Her statement was recorded from which it reveals that the victim is a 14 years girl. On 18/04/2023 in the night, the applicant approached to her and took her along with him and subjected her for sexual assault. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that there was a love affair between the victim and the present applicant. Out of love affair, she joined the company of the present applicant and there was a physical relationship between them. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the victim is only 14 years of age whereas the applicant is 22 years married man who took the victim along with him and subjected her for forcible sexual intercourse. The consent of the victim is not relevant and *prima facie* case is made out against the present applicant. In view of that, the application deserves to be rejected.

5. Learned Counsel for the victim also endorsed the same contentions and submitted that by using force the victim was taken by the present applicant. If he is released on bail he will tamper with the prosecution evidence. Hence, bail application deserves to be rejected.

6. On perusal of the investigation papers and the submissions of both the sides, the statement of the victim reveals that she is aged about 14 years and was studying in the school. It further reveals that the present applicant induced her to come along with him on the promise of marriage and she went along with him and she was subjected for sexual assault by the present applicant. Admittedly, the consent of the victim is not relevant. Moreover, the applicant is a married person, already leading his married life inspite of which he has taken the minor girl along with him and subjected her for sexual intercourse. *Prima facie* case is made out against the present applicant. The consent of the victim is not relevant. At this stage, considering the *prima facie* case, bail 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.)