



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

CRIMINAL APPLICATION (BA) NO.1097 OF 2023

Akshay Dadaji Ramteke

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Desaiganj,
District Gadchiroli 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. R. M. Daga, Advocate for applicant.

Mr. Nikhil Joshi, APP for non-applicant No.1/State.

Mr. Anirudh Ananthakrishnan, appointed Advocate for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/01/2024

1. The present applicant has filed the application for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.225/2023 registered with Police Station, Desaiganj, District Gadchiroli for the offence punishable under Sections 377 and 506 read with Section 34 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children From Sexual Offences Act. The applicant is arrested on 10.06.2023 and since then he is behind bar.

2. Learned Counsel for the applicant Mr. Daga submitted that the allegation against the present applicant is on the basis of report lodged by the victim boy alleging that his father runs a Jewellery shop and he got acquaintance with the present applicant, thereafter they developed friendship between them. It is further alleged that present applicant and other co-accused

sexually assaulted him by committing sexual assault unnaturally. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as per the statement of the victim boy the alleged incident is going on since 2018 and the FIR is lodged by him after five years. He also invited my attention towards some photographs, wherein the victim was shown participated in attending the marriage ceremony of the present applicant. He submitted that the allegations are not supported by the medical evidence. The co-accused with the similar allegation, is already released on bail, thus, on the ground of parity also the present applicant be released on bail.

4. Said application is strongly opposed by learned APP on the ground that the statement of the victim recorded by the police under Section 164 of Cr.P.C. and the opinion given by the Medical Officer that sexual assault cannot be ruled out sufficiently shows the involvement of the present applicant. There is a *prima facie* material and hence, bail application deserves to be rejected.

5. Learned Counsel appointed for the non-applicant No.2 endorsed the same contention and reiterated that considering the nature of the offence, the young boy is sexually assaulted by the present applicant and other co-accused. The bail application deserves to be rejected.

6. After hearing the learned Counsel for the applicant, learned APP for the State and learned appointed Counsel for the non-applicant No.2. Perused the investigation papers especially the statement of the victim boy, medical report, it reveals that the victim boy has alleged from last five years, he was subjected for the sexual assault by the applicant. He has lodged the report about the incident after five years, the reason mentioned is that, he was threatened and therefore, he has not approached to the Police Station. Admittedly, no injuries on the genitals is observed by the Medical Officer during his medical examination. The photographs on record pointed out his participation in the marriage ceremony of the present applicant. The statements recorded by the Investigating Officer and recorded under Section 164 of Cr. P.C. wherein similar allegations are made against other two co-accused. One of them is already released on bail by this Court and other by the trial Court. In view of that, present applicant is also entitled to be released on bail on the ground of parity, considering the similar allegations are made. Moreover, the investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required and no purpose will be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The Criminal application is allowed.

(ii) The applicant **Akshay Dadaji Ramteke** be released on bail, in connection with Crime No.225/2023 registered with Police Station, Desaiganj, District Gadchiroli for the offence punishable under Sections 377 and 506 read with Section 34 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children From Sexual Offences Act, on executing PR bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a month on Sunday between 10.00 a.m. to 1.00 p.m., till the culmination of the trial.

(iv) The applicant shall not leave the jurisdiction of District Gadchiroli without prior permission of the Court.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

7. The fees of the appointed Counsel for the non-applicant No.2 be quantified as per rules.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)