



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

CRIMINAL APPLICATION (BA) NO.1115 OF 2023

Jitendra s/o Naresh Patil

Vs.

The State of Maharashtra, Through Officer In-charge Police Station,
Kalamana District Nagpur 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. M. L. Chouhan, appointed Advocate for applicant.

Mr. A. G. Mate, APP for respondent No.1/State.

Ms. F. N. Haidari, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/02/2024

1. The applicant came to be arrested on 25.11.2021 in connection with Crime No.922/2021 registered with Police Station Kalamana, Nagpur District Nagpur for the offences punishable under Sections 376, 376(2)(j), 376(2)(n), 376(2)(f) and 376(3) of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicant is that he is a stepfather of the victim girl, who is aged about 13 years. The mother of the victim performed second marriage with the present applicant and the victim was residing along with the present applicant. It is alleged that since she was 11 years was subjected for sexual assault by the present

applicant. In the result, she carries the pregnancy and the samples are sent to the DNA, wherein it revealed that the present applicant is the biological father of the child. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Chouhan for the applicant submitted that the history narrated by the victim to the Medical Officer shows that she was not aware about the alleged incident. Moreover, the statement which is recorded under Section 164 of the Code of Criminal Procedure is also not inspiring confidence. Now, the investigation is completed and charge-sheet is filed, no purpose will be served by keeping the present applicant behind bar. He is the only earning member of the family and his old aged parents are depend upon him.

4. Learned APP and the learned Counsel for the respondent No.2 – victim opposed the application mainly on the ground that victim girl is of 13 years age. The applicant is a stepfather subjected her for sexual assault, which resulted into carrying of the pregnancy by the applicant. If he released on bail, he will tamper with the prosecution evidence. It is further submitted that now, trial is already commenced and four witnesses are examined. In view of that, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant, learned APP for the State and learned Counsel for the respondent No.2 and perused the investigation papers it reveals from the investigation papers that, the applicant is the stepfather of the victim, who is only 13 years of age subjected for sexual assault. The DNA report shows that the present applicant and the victim are the biological parents of the child. Now, the trial is already commenced. Considering the material evidence against the present applicant especially the scientific evidence which shows the involvement of the present applicant in the alleged offence and considering the fact that now, trial is already commenced, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)