



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

CRIMINAL APPLICATION (BA) NO.1134 OF 2023
(Sachin Kailas Solanke ..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. R.M. Daga, Advocate for the applicant.
Mr. Nikhil Joshi, APP for the State.
Mrs. Sonali Saware, Advocate (appointed) for non-applicant no.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 13, 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 02/08/2023 in connection with Crime No.308/2023 registered with Police Station Washim Rural, Washim for the offence punishable under Sections 376(2)(j), 376(2)(n), 376-D, 506 read with Section 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012.

2. Learned Counsel appearing for the applicant would submit that the accusation against the present applicant is on the basis of report lodged by the victim who is aged about 17 years, who alleged that on 10/10/2022 at about 11:00 p.m. to 12:00 p.m. three unknown persons entered into the house, who were covering their faces. Out of them one person has subjected her for sexual assault due to which she was pregnant of 30

weeks. On the basis of said report, the Police have registered the crime against the unknown persons. Subsequently, on 27/06/2023 she stated before the Police Station Officer that on 10/10/2022, her parents were not at home. At that time present applicant came at her house and expressed his feelings. There was a love affair between them and out of love affair they had sexual relationship. She further alleged that on the promise of marriage he has subjected her for sexual assault. On the basis of her subsequent statement the crime has been registered against the present applicant.

3. Learned Counsel further submitted that the statement under Section 164 of the Code of Criminal Procedure is also recorded, wherein also she has stated that initially, she gave a false statement to protect the present applicant, thus it reveals that out of love affair there was physical relationship between them. Now, the investigation is completed and charge-sheet is filed. Since 02/08/2023, the applicant is behind the bar. No purpose would be served by keeping him behind bar as the investigation is completed.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the victim is 17 years of age. Her consent is not relevant. Moreover, on the promise of marriage, she was subjected for sexual assault. It is not that out of love affair there was a physical

relationship. After the arrest of the present applicant, the family members of the present applicant threatened the victim and two N.C. reports are filed. Considering the same, there is apprehension that if the applicant is released on bail he will tamper with the prosecution evidence.

5. Learned Counsel appearing for non-applicant no.2 endorsed the same contentions and submitted that if applicant is released on bail he would tamper with the prosecution evidence. In view of that, application deserves to be rejected.

6. Having heard learned Counsel appearing for the parties. Perused the recitals of the FIR and subsequent statements of the victim. Initially, the victim has alleged against the unknown persons but she clarified that she has made such a statement to protect the present applicant. It further reveals that there was a love affair between the victim and the present applicant. Out of love affair they had a physical relationship. In the statement recorded under Section 164 of the Code of Criminal Procedure also she has narrated the similar contentions. She is medically examined. It reveals from the medical examination that due to the physical relationship, she was pregnant of 30 weeks. DNA report is still awaited. Admittedly, the physical relationship between the victim and the applicant was out of the love affair. Now, the investigation is already

completed and charge-sheet is filed. Considering the nature of the allegations, further incarceration of the present applicant is not required however, the apprehension raised by the victim is required to be taken into consideration. In view of that some conditions are required to be imposed on the applicant. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The applicant - Sachin Kailas Solanke in connection with Crime No.308/2023 registered with Police Station Washim Rural, Washim for the offence punishable under Sections 376(2)(j), 376(2)(n), 376-D, 506 read with Section 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012, be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Dharkata, District Washim till the culmination of the trial.
- (iv) 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 through any other

family members also by contacting the witnesses.

(v) Any contravention of the terms and conditions imposed by the applicant, the bail granted to the applicant deserves to be cancelled.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*