



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

CRIMINAL APPLICATION (BA) NO. 1168 OF 2023

Prabhakar Ramdasaji Ghatwade

Vs.

State of Maharashtra, Through Police Station Ashti, Wardha, District
Wardha and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. K. L. Mahalle, Advocate for applicant.

Ms. H. S. Dhande, APP for respondent No.1/State.

Ms. A. S. Mishrikotkar, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13 /03/2024

1. The applicant came to arrested on 16.04.2021 in connection with Crime No.150/2020 registered with Police Station Ashti, District Wardha for the offence punishable under Sections 363, 366-A, 376(2)(f)(n) and 506 of the Indian Penal Code and under Section 4 and 6 of the Protection of Children from Sexual Offences Act.

2. Initially, the report was lodged on the basis of statement of the father of the victim, who alleged that his daughter aged about 17 years left the house and not returned back and some unknown person had kidnapped her on some promise. On the basis of report, initially, the police have registered the crime under Section 363 of the Indian Penal Code. During the investigation, it reveals that the present applicant

took the victim on the promise of marriage and subjected her for sexual assault. The statement of the victim was recorded and it revealed that she was pregnant of three months.

3. Learned Counsel for the applicant submitted that from the statement of the victim, it reveals that there was a love affair between her and the present applicant, who is her cousin brother (aunt's son) and out of love affection there was a physical relationship. 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 APP strongly opposed the application on the ground that victim is 17 years of age, her consent is not relevant. If the applicant/accused is released on bail, he would tamper with the prosecution evidence. In view of that, application deserves to be rejected.

5. Learned appointed Counsel for the respondent No.2 endorsed the same contention and opposed the application.

6. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, initially, the crime was registered on the basis of report lodged by her

father. During the investigation, statement of the victim girl is recorded. From which, it reveals on the promise of marriage, the present applicant took her and there was a physical relationship between them. At this stage, whether there was a false promise or not or whether there was intention since inception cannot be ascertained, as it is a matter of evidence. At this stage, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. Moreover, from the statement of the victim, it reveals that there was a love affair and therefore, she joined the company of the present applicant. Considering the said facts, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Prabhakar Ramdasaji Ghatwade** shall be released on bail in connection with Crime No.150/2020 registered with Police Station Ashti, District Wardha for the offence punishable under Sections 363, 366-A, 376(2)(f)(n) and 506 of the Indian Penal Code and under Section 4 and 6 of the Protection of Children from Sexual Offences Act, on executing PR 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 Porgavhan, Taluka Ashti, District Wardha, til the culmination of the trial.

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

7. The fees of the appointed Counsel be quantified as per rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)