



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

CRIMINAL APPLICATION (BA) NO. 1172 OF 2023

Deepak S/O Parashram Dongare V/S State Of Maharashtra And Another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.S. Nayak, counsel for the applicant.
Mr. A.R.Chutke, APP for the non-applicant/State.
Ms. MS. Kotecha, counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/02/2024.

1. In connection with Crime No. 178/2023 registered with Police Station, Mahagaon, District Yavatmal for the offence punishable under Sections 354, 354(A), 354(A)(1)(I), 354(A)(II), 354-B of the Indian Penal Code, 1860 and Section 8, 11, 11(4), 9(k), 12 of the Protection of Children from Sexual offences Act, 2012. The applicant came to be arrested on 20/03/2023.

2. The accusation against the present applicant is on the basis of FIR lodged by the grandmother of the victim, on an allegation that the victim is mentally retarded and aged about 15 years. On 19/03/2023 she attended work and returned home in the evening, at that time, the victim by way of signals/gestures informed her that when she had been to the grocery shop, at that time, present applicant pulled her in his house, attempted to disrobe her, and also tried to sexually

harass her by touching her private part. On the basis of the report, the police have registered the crime.

3. Learned counsel for the applicant submitted that due to the previous enmity between the two families, he is falsely implicated in the alleged crime. Now, the investigation is completed and charge-sheet is filed. He further submitted that this is the first application filed before this Court. Now, the investigation is completed and charge-sheet is filed and the applicant is behind bars for sufficient period, he prays for releasing the applicant on bail.

4. Learned APP for the State and learned counsel for the non-applicant No.2 raised the strong objection on the ground that the victim is a mentally retarded girl, who was sexually harassed by the present applicant. If the present applicant is released on bail, he will tamper with the prosecution evidence. In view of that, he prays for rejection of the application.

5. Having heard learned counsel for the applicant, learned APP for the State, and learned counsel for the non-applicant No.2, perused the investigation papers. From the recitals of the FIR and the statements, it reveals that the allegation against the present applicant is that the victim, who is a mentally retarded girl, had been to the grocery shop, at that time, the present applicant sexually harassed her, and attempted to disrobe her, and also physically touch the private part. The statement of the victim is recorded with the help of the expert. She also disclosed the alleged act of the present

applicant. Admittedly, serious allegations are levelled against the present applicant but considering now, that the investigation is completed and charge-sheet is filed, the offences alleged are not punishable with imprisonment of more than five years. As far as the apprehension raised by the prosecution is concerned, the applicant would tamper with the prosecution evidence can be taken care of by imposing some conditions on the present applicant. In view of that, I proceed to pass the following order:

- a) The criminal application is **allowed**.
- b) In connection with Crime No. 178/2023 registered with Police Station, Mahagaon, District Yavatmal for the offence punishable under Sections 354, 354(A), 354(A)(1)(I), 354(A)(II), 354-B of the Indian Penal Code, 1860 and Section 8, 11, 11(4), 9(k), 12 of the Protection of Children from Sexual offences Act, 2012, the applicant -**Deepak s/o Parashram Dongare** shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall not enter into the vicinity of Shirpur, Tah. Mahagaon, District Yavatmal, till culmination of the trial.
- d) The applicant shall attend the proceedings before the learned trial Court regularly.

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

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]