



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

**CRIMINAL APPLICATION (BA) No.70 OF 2024**

(Salimoddin s/o. Gyasoddin Sheikh Vs. State of Maharashtra, through PSO, PS  
Pandharkawada, Distt. Yavatmal and another)

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

Court's or Judge's orders.

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Mr. R.M. Daga, Advocate for applicant.  
Ms. M.A. Barabde, APP for non-applicant No.1.  
Mr. Sameer Khan, Advocate for non-applicant No.2.

**CORAM : URMILA JOSHI-PHALKE, J.**

**DATE : 09<sup>th</sup> FEBRUARY, 2024.**

1. The applicant came to be arrested on 16.8.2023 in connection with Crime No.999/2023, registered with Police Station Pandharkawada, District Yavatmal, for the offence punishable under Sections 376(2)(j)(n), 376(3), 506 of the Indian Penal Code and under Sections 4,6 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The F.I.R. is lodged by the victim who is 17 years old. As per her allegations when she was studying in 10<sup>th</sup> standard she got acquaintance with the present applicant, who is also known as Bittu Sheikh. She received Facebook message from the present applicant on the Facebook account of her mother and expressed that he wants to talk with her. Thereafter, there was a communication between them. The informant has also exchanged her mobile phone to him and they were communicating with each other. It is further alleged that the applicant has promised her for marriage and on the promise of marriage subjected her for sexual assault. On

the basis of said report Police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that considering the recitals of the F.I.R. and the history narrated by the victim before the Investigation Officer shows that the relationship between them out of the love affair. Now, investigation is completed. Chargesheet is filed. Further incarceration of the applicant is not required.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that victim is only 17 years of age and her consent is not relevant. In view of that, application deserves to be rejected. Learned counsel for the victim filed his reply and submitted that victim has no objection if the applicant is released on bail.

5. As far as consent of the victim regarding releasing applicant on bail, his consent cannot be taken into consideration. However, from the investigation papers it reveals that the victim got acquaintance with the present applicant and thereafter friendship was developed between them, which resulted into love affair. As per the allegation in the F.I.R. the present applicant promised her for marriage and subjected her for sexual assault. Admittedly, she has not made any grievances prior to lodging of the F.I.R. The history narrated by her itself shows that out of love affair they had physical relationship with each other. Now, investigation is already completed. Chargesheet is filed. Considering the circumstances under which the relationship was developed. Admittedly, the alleged incident has not taken place out of the lust, but at the most can be termed as breach of promise.

6. Considering that now investigation is completed. Chargesheet is filed. Further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

**ORDER**

- (i) The Application is allowed.
- (ii) The applicant - Salimoddin s/o. Gyasoddin Sheikh, is released on bail in connection with Crime No.999/2023, registered with Police Station Pandharkawada, District Yavatmal, for the offence punishable under Sections 376(2)(j)(n), 376(3), 506 of the Indian Penal Code and under Sections 4,6 and 12 of the Protection of Children from Sexual Offences Act, 2012 on executing PR Bond in the sum of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant shall not enter into the village Pandharkawada except attending the dates of hearing of the Court till the culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses, who are acquainted with the facts of this case.
- (v) The applicant shall not leave jurisdiction of Yavatmal city without prior permission of the Court.

7. The application is disposed of.

**(Urmila Joshi-Phalke, J.)**