



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

CRIMINAL APPLICATION (BA) NO.326 OF 2024

(Nikhil Ramesh Pimpalkar 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. S.M. Joshi, Advocate for the applicant.
Mrs. M.A. Barabde, APP for the State.
Ms N.G. Choubey, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 9, 2024.

By this application, the applicant is seeking bail as he was arrested on 28/02/2022 in connection with Crime No.67/2022 registered with Police Station Chimur, District Chandrapur for the offence punishable under Sections 354-B, 376(1), 376(AB), 376(2)(f) of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of the report lodged by the mother of the victim girl on an allegation that on 27/02/2022 she had been to the agricultural field for doing labour work and her husband has also attended the work. Her daughter was playing in the courtyard of the house. She returned home at about 2:00 p.m. and her daughter disclosed to her that present applicant who was along in the house on promising cake and chocolates, removed her cloths and touched his private part on her private part and also forcefully kissed

her. On the basis of said report, police have registered the crime against the present applicant. During investigation, the statement of the victim was also recorded. The victim was referred for the medical examination. After completion of the investigation charge-sheet was filed.

3. Learned Counsel for the applicant submitted that since 28/02/2022 the applicant is behind bar. The investigation is already completed and charge-sheet is filed. On 23/04/2022, thus the applicant is behind bar for more than two years, there is no progress in the trial. He placed on record the copy of the Rojnama which shows that though charge is framed the witnesses are not examined and from the Rojnama nowhere it reveals that the trial was prolonged due to the accused. On merit also he submitted that as far as the allegations are concerned there is no penetrative sexual assault by the accused allegedly. He submitted that now investigation is completed and charge-sheet is filed, further incarceration is not required. In view of that, the applicant be released on bail. In support of his contention, he placed reliance on the decisions of the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and anr. [2024 SCC OnLine SC 1693]*** wherein the delay aspect was considered by the Hon'ble Apex Court and the applicant therein was released on bail. In ***Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of U.P. [2024 SCC OnLine SC 1755]*** is also relied by the learned

Counsel on the same ground that on delay in trial the applicant therein was also released on bail. He further placed reliance on the decision of this Court in ***Criminal Bail Application No.2244 of 2023*** and ***Criminal Application (BA) No.494 of 2024***.

4. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the said application on the ground that the victim girl is only 4 years of age, she was subjected for sexual assault by the present applicant. If present applicant is released on bail he would tamper the prosecution evidence and also pressurize the witnesses. She further submitted that considering the gravity of the offence, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the victim of 4 years of age was subjected for the sexual assault by the applicant. The nature of the allegation is that the present applicant disrobed her and touched his private part on her private part and thereby committed an offence. As far as the penetrative sexual assault is concerned there is no allegation as to the penetrative sexual assault.

6. Learned Counsel for the applicant relies upon the various decisions wherein there is a consistent view

that the incarceration in the custody for long period of trial or completion of trial affects personal liberty guaranteed under Article 21 of the Constitution of India, in the context of restrictions for granting bail. It is further the observation of this Court as a constitutional Court the duty is cast upon this Court to ensure his liberty as a speedy trial has been recognised as integral part under Article 21 of the Constitution of India.

7. Though the material in the charge-sheet indicate that the applicant is involved in the said crime and there is material evidence against the present applicant but considering the right of the present applicant regarding the speedy trial which is affected due to the delay in trial and the liberty which is the integral part under Article 21 of the Constitution of India, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant – Nikhil Ramesh Pimpalkar in connection with Crime No.67/2022 registered with Police Station Chimur, District Chandrapur for the offence punishable under Sections 354-B, 376(1), 376(AB), 376(2)(F) of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on executing PR. Bond in the

sum of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station twice in a month i.e. 1st and 15th day of every month and the Police Officer shall record his presence.

(iv) The applicant shall not enter in the vicinity of village Gadgaon, Taluka Chimur, District Chandrapur till culmination of the trial.

(v) The applicant shall furnish his address of his residence after releasing him on bail and shall furnish the names of his two relatives with their address proof before the trial Court.

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

(vii) The contravention of any of the condition would lead to the cancellation of bail.

8. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)