



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

CRIMINAL APPLICATION [BA] NO.362 OF 2024

(Sandeep s/o Nandlal Choudhary .vs. State of Maharashtra and one)

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.K. Dobade, Advocate for Applicant,
Ms. H.N. Prabhu, APP for Non-Applicant No.1-
State,
Ms. Archana P. Murrey, Advocate (Appointed) for
Non-Applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JUNE 26, 2024.

. This is an application filed under Section 439 of
the Code of Criminal Procedure for grant of bail.

2. The applicant came to be arrested on 21.10.2023
in connection with Crime No.611/2023 registered under
Section 376, 506 (2) of the Indian Penal Code.

3. Learned counsel for the applicant submitted that
as per the prosecution case the applicant was the school van
driver and the victim was acquainted with him. On
20.10.2023 the applicant invited her to come along with him

for roaming and she joined his company and the applicant has taken her at isolated place and subjected her for sexual assault. On the basis of the said report, police have registered the crime against the present applicant. He submitted that as far as the incident is concerned, victim has not disclosed the said incident and lodged report after two days. That delay is not explained. He further submitted that from the statement of the victim it is apparent that she has consented for the physical relationship and out of consent, the physical relationship was developed between them. Now investigation is completed, chargesheet is filed, further incarceration of the applicant is not required, in view of that, he be released on bail.

4. Learned Additional Public Prosecutor for the non-applicant no.1-State strongly opposed the said application on the ground that though the victim has gone along with the present applicant, but the consent on the part of the victim cannot be presumed. As far as the consent is concerned which was not there and though investigation is completed, considering the fact under which the alleged incident has taken place, the application deserves to be rejected.

5. After hearing the learned counsel for the applicant and the learned Additional Public Prosecutor for the non-

applicant no.1-State as well as the learned appointed counsel for non-applicant no.2, perused the recitals of the first information report and the investigation papers. From the investigation papers and from the recitals of the first information report, it reveals that the victim went along with the present applicant at her own. At this stage, it revealed from the statements and the history narrated before the medical officer that as victim has consented for the physical relationship, the incident appears to happen. Whether it was a free consent or not is a matter of evidence. At this state, considering the investigation is already completed, chargesheet is already 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 the following order :

- (i) The application is allowed.
- (ii) The applicant – Sandeep s/o Nandlal Choudhary shall be released on bail in connection with Crime No.611/2023 registered with Police Station, Beltarodi, District-Nagpur for the offence punishable under Section 376, 506 (2) of the Indian Penal Code, on his executing PR. Bond in the sum of Rs.25,000/- with one solvent surety of like amount.

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

(iv) The applicant shall attend the proceeding before the trial court without seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not enter into the vicinity Narendra Nagar, Jai Durga Society, Beltarodi, till the culmination of the trial.

(vi) Fees of the appointed counsel be quantified as per the rules.

6. The application is disposed of.

JUDGE