



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

CRIMINAL APPLICATION (ABA) NO. 542 OF 2024

Rajneesh Gopaldas Bairagi Vs 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. P.K. Bezalwar, counsel for the applicant.

Mrs. Sneha Dhote, APP for non-applicant/State.

Mr. Aditya Pande, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/08/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 239/2024 registered with police station Kapilnagar, Nagpur for the offence punishable under Section 376(2)(n), 323, 294 read with Section 34 of the Indian Penal Code, 1860 and Sections 4, 6, 8 and 12 of the Protection of Child Sexual Offences Act, 2012, the applicant approached this Court for grant of pre-arrest bail.

2. The applicant is apprehending arrest at the hands of police in connection with the above crime, as the allegation is made against the present applicant. On the basis of the report lodged by the victim alleging that, at the relevant time, she was studying 11th Standard, she got acquaintance and they were communicating with each other, the applicant has taken her in the lodged on promise of marriage and subjected her for sexual assault on multiple occasions. On 08/06/2024, the applicant and his mother approached the victim at Ginger Mall and abused her in filthy language, and

also assaulted her. On the basis of the report, police have registered the crime against the present applicant.

3. Learned counsel Mr. Bezalwar for the applicant submitted that there was acquaintance between the victim and the present applicant, and they developed a love affair, and due to the love affair, there was a consensual sexual relationship between both of them. He submitted that the victim has extracted money from the present applicant on various occasions, and he filed on record the documents to show that on several occasions he has paid the money to the victim, and there was communication between them. He submitted that from these documents, it is crystal clear that there was a sexual relationship between both of them out of love affair. As far as the custodial interrogation is concerned, which is not required, in view of that, the applicant be released on anticipatory bail.

4. Learned APP and the learned appointed counsel strongly opposed the said application, on the ground that, from the investigation papers, it reveals that not only the present victim but the applicant has taken various girls in the lodge and subjected them for sexual assault. They further submitted that, at the relevant time, the victim was studying in 11th Standard and below 18 years of age, therefore, her consent was not relevant. It further appeared that she was not only sexually assaulted by the present applicant, but she was also assaulted and abused by the present applicant when she had been to the Ginger Mall.

Thus, considering the manner in which the applicant has treated the victim, the application for grant of anticipatory bail deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that there was acquaintance with the victim and the present applicant. The present applicant has not only promised her for marriage but has also taken her in a lodge and subjected her for sexual assault. From the recitals of the FIR and from the statements of the witnesses, especially the statements of independent witnesses, shows that when the victim had been to the Ginger Mall, at the relevant time, the present applicant and his mother went to the Ginger Mall and quarreled with her and abused her in filthy language, and said incident was also recorded in the CCTV footage. From the investigation papers, it further reveals that, during the investigation, the investigating officer visited the lodge wherein the victim was taken, and it revealed that not only the victim but other girls were also brought by the present applicant in the said lodge, and he stayed with other girls also in the said lodge. Thus, considering the entire conduct of the present applicant and considering the fact that the victim was subjected for sexual assault when she was a minor, her consent is absolutely not relevant.

6. Moreover, the investigation papers show that, the applicant has not only taken victim girl in Galaxy and the

Western Hotel, but he has also taken other three girls in the said lodged and hotel sufficiently shows his conduct. In view of that, prima-facie case is made out against the present applicant. Furthermore, this is not a fit case to use the discretion. In view of the above, I proceed to pass the following order;

- a] The criminal application is rejected.
- b] The fees of the appointed counsel be quantified as per Rule.
- c] The criminal application stands disposed of.

[URMILA JOSHI-PHALKE, J.]