



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

CRIMINAL APPLICATION (BA) NO. 1196 OF 2024

Ajit Puri S/O Raju Puri Goswami 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. N.R.Tekade, counsel for applicant.

Mr. C.A. Lokhande, APP for non-applicant/State.

Mr. Anirudh Ananthakrishnan, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/02/2025.

1. The applicant came to be arrested on 06/12/2023 in connection with Crime No. 474/2023 registered with Police Station Gondia (Rural), Tah. and District Gondia for the offences punishable under Sections 363, 376(2)(i) of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of a report lodged by father of the victim on an allegation that his daughter, aged about 13 years, got missing. On 04/11/2023, though he searched for her, but he could not trace her. During investigation, the victim was found along with the accused. Her statement was recorded. Her medical examination was carried out, and thereafter, the offence was registered against the present applicant.

3. Heard learned counsel for the applicant, who submitted that the statement of the victim and her evidence before the Court also show that she, at her own, joined the company of the present applicant, who is also a young boy of 18 years, and out of that love affair, they went together. As far as sexual assault is concerned, there is absolutely no evidence against the present applicant; even the victim has not supported during the evidence before the Court. Now, the evidence of the victim is also recorded therefore, the apprehension regarding tampering of the witness is also not in existence, and therefore, the application be allowed. He submitted that considering now, further incarceration of the present applicant is not required, he be released on bail.

4. Learned APP and learned appointed counsel strongly opposed the said application on the ground that, considering the 13 years girl was subjected for sexual assault by the present applicant, who is aged about 18 years. As far as the defence of the love affair is concerned, which is not sustainable, as the consent of the victim is not at all relevant, in view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, it reveals that on the day of incident i.e. on 04/11/2023 victim left the house, and after due search, she was not found. Therefore, the father of the victim has lodged the report. During investigation, the

victim was found along with the accused. Her statement was recorded. During her statement, she submitted that she, at her own, joined the company of the accused, and there was a physical relationship between them. Thereafter, the charge was framed. The evidence of the victim is recorded, but during the evidence, she has completely retracted her statement and not supported the prosecution case. Even she has not stated that there is any physical relationship with her and the present applicant. The medical evidence only to the extent that there was a hymenal tear. Thus, considering the victim has not supported the prosecution case, and the apprehension regarding tampering of the witnesses is also not available and her evidence is already recorded before the Court. Considering the same, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant – *Ajit Puri s/o Raju Puri Goswami* in connection with Crime No. 474/2023 registered with Police Station Gondia (Rural), Tah. and District Gondia for the offences punishable under Sections 363, 376(2)(i) of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, shall be released on bail on executing P.R. Bond of

Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into the vicinity of the Fulchur, District Gondia, till the culmination of the trial.
- d] The applicant shall not induce, threat or promise any witness who are acquainted with the facts of the present case.
- e] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.
- f] The applicant shall cooperate with the court to dispose of the trial at the earliest.
- g] The fees of the appointed counsel be quantified as per rule.

6. The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]