

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3036 OF 2015**[Prakash @ Nana Kisan Suryawanshi and anr. Vs The State of Maharashtra]**

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

Court's or Judge's orders

Shri R.S.Deshmukh, advocate for applicants
Shri A.S.Shinde, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.**DATED : 2nd July, 2015****PER COURT :-**

- 1] This is an application for regular bail.
- 2] The applicants are arrested in connection with Crime No. 8 of 2015, registered with Police Station Mhaswad, District Nandurbar for the offences punishable under Sections 376(1)(2)N, 313, 506 r/w 34 of the Indian Penal Code; under Sections 3, 4, 5 r/w 6 of the Protection of Children from Sexual Offences Act; and under Section 3(1) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
- 3] I have heard Shri R.S.Deshmukh, learned counsel for the applicants and Shri A.S.Shinde, learned Additional Public Prosecutor for the respondent/State.
- 4] The investigation is over and charge sheet is already filed.
- 5] The first information report is lodged by the prosecutrix herself. According to the first information report, the prosecutrix came in contact with applicant no.2 Roshan who works as a waiter at Malhar Dhaba at Mhaswad. Report shows that Roshan said to her that at Malhar Dhaba one

person is required for cleaning the utensils and if she is ready to do the job money will be paid to her. The prosecutrix, according to the first information report agreed to do the said job. Accordingly, she reached to the said Dhaba with Roshan on a motor cycle. According to the first information report, on very same day, applicant no.1 who is Dhaba owner gave a proposal to her that if she marries with him, a house will be provided to her, and therefore, according to the prosecutrix she was ravished. The first information report further discloses that this continued for 5 to 6 months and thereafter she got pregnancy. The first information report is completely silent that there was no liberty for the prosecutrix to report the matter to the police.

6] Looking to the fact that the investigation is over and charge sheet is already filed and there is a delay of 8 months in lodging the first information report, in spite of the fact that the prosecutrix was having opportunity to lodge report against the present applicants, this is a case wherein the court should exercise its discretion in favour of the applicants. That leads me to pass following order.

ORDER

- (i) Application is allowed.
- (ii) In connection with Crime No. 8 of 2015, registered with Police Station Mhaswad, District Nandurbar for the offences punishable under Sections 376(1)(2)N, 313, 506 r/w 34 of the Indian Penal Code; under Sections 3, 4, 5 r/w 6 of the Protection of Children from Sexual Offences Act; and under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Applicant no.1-Prakash @ Nana Kisan Suryawanshi be released on bail on he executing P.R. bond of Rs.25,000/- with two solvent sureties in the like amount; and Applicant no.2-Roshan Meharsing Pawara be released on bail on he

executing P.R. bond of Rs.5,000/- with one solvent surety in the like amount.

(iii) Bail before the trial court.

(iv) The applicants shall attend Mhaswad police station once a a week, preferably on every Sunday in between 3.00 p.m. to 5.00 p.m. till the trial is over.

(v) Both the applicants shall not in any way try to contact the prosecutrix in any manner whatsoever.

(vi) Needless to mention, the observations made in this order are prima facie in nature and are restricted to this application only and the learned Judge of the court below, shall not get influenced himself by the said observations while deciding the matter on merits.

(vii) Criminal Application is disposed of.

(V.M.DESHPANDE, J.)

dbm/crap3036.15