

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

CRIMINAL APPLICATION (BA) NO. 853/2018

Pavan Shankar Mahanar & anr.

..VS..

The State of Maharashtra, Thru PSO, PS Dattapur, Dist. Amravati

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

Court's or Judge's orders

Shri M.N.Ali, Advocate for the applicant(s)
Shri S.S. Doifode, APP for the non-applicant/State

CORAM : Z.A.HAQ, J.
DATED : 10/10/2018

Heard.

The two applicants (son and mother) are arrested on 04/05/2018 in connection with Crime No. 78/2018 registered by the non-applicant against five accused for the offences punishable under Sections 376 (1) (a), 302, 201 and 120B of the Indian Penal Code r/w Section 4, Section 6 and Section 21 of the Protection of Children from Sexual Offences Act.

According to the prosecution, rape was committed on the victim (aged about 16 years) by the applicant no. 1/Pavan Shankar Mahanar and the co-accused/Bhimrao, Ambadas and Pandurang. The minor girl/victim happened to be the sister of the applicant no. 1 and the daughter of the applicant no. 2. According to the prosecution, the victim developed pregnancy and at the stage when it was of about 5 months, the victim was taken to the hospital by the applicant no. 2/Sayabai and then all the accused had planned to kill the victim and accordingly the plan is worked out.

The application is opposed not only on the ground that the crime is heinous in nature but also on the ground that if the applicants are released on bail, then it will create insecurity amongst the minor girls of the village.

Considering the nature of accusations against the applicants, I am not inclined to grant the prayer made in this application.

The application is **dismissed**.

The learned Sessions Judge shall expedite the trial and conclude it within one year.

During the course of hearing of Criminal Application (BA) No. 853/2018 filed by the two accused/Pawan Shankar Mahanar and Sayabai Shankar Mahanar, the order passed on Miscellaneous Criminal Application No. 526/2018 on 22/06/2018 is pointed out in which the learned Additional Sessions Judge has directed that the co-accused/Ambadas Dashrath Karande and Pandurang Dashrath Karande be released on bail. The accusations against these two accused are that they had also committed rape on the victim (aged about 16 years) and participated in the offence of killing the victim.

The learned Additional Sessions Judge has passed order on Miscellaneous Criminal Application No. 1008/2018 on 10/09/2018 directing that the co-accused/Bhimrao Dashrath Karande be released on bail. The accusations against this accused are also that he had committed rape alongwith co-accused, on the victim (aged about 16 years) and

participated in the offence of killing the victim.

After going through the orders passed by the learned Additional Sessions Judge directing that the co-accused/Ambadas Dashrath Karande, Pandurang Dashrath Karande and Bhimrao Dashrath Karande be released on bail, I find that the learned Additional Sessions Judge has not considered the material on record in the right perspective and has allowed the applications filed by the accused for the asking, with general discussion. The learned Additional Sessions Judge ought to have considered the matter keeping in view the heinous nature of crime and the consequences in the society.

As I am of the view that the orders passed by the learned Additional Sessions Judge directing the release of the co-accused/Ambadas Dashrath Karande, Pandurang Dashrath Karande and Bhimrao Dashrath Karande, prima facie cannot sustain the scrutiny of law, the following order is passed:-

Issue notice to Ambadas Dashrath Karande and Pandurang Dashrath Karande (In Misc. Criminal Application No. 526/2018) and Bhimrao Dashrath Karande (In Misc. Criminal Application No. 1008/2018) to show cause as to why the orders passed by the learned Additional Sessions Judge directing their release on bail should not be cancelled.

Notice is made returnable on 17/10/2018.

The Superintendent of Police, Yavatmal shall ensure that notices are served on the three accused/ Ambadas Dashrath Karande, Pandurang Dashrath Karande and

Bhimrao Dashrath Karande and report is sent to this Court by the returnable date.

Shri S.S. Doifode, learned APP shall communicate this order to the Superintendent of Police, Yavatmal immediately.

Copy of this order be furnished to the learned APP.

JUDGE

Ansari