

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 781 OF 2019

Pradnya d/o Rajendra Sadanshive and another .Vs. State of
Maharashtra,through P.S.O, P.S. Rajapeth, Amravati.

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

Court's or Judge's orders.

Mr. N.D. Borkar, Advocate for applicants.

Mr. J.Y. Ghurde, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.

DATED : DECEMBER 02, 2019

Heard Mr. N.D. Borkar, learned counsel for the applicants and Mr. J.Y. Ghurde, learned Additional Public Prosecutor for the non applicant-State. Also perused the detailed reply filed on behalf of the prosecution.

The applicants who are brother and sister inter se are apprehending their arrest in connection with Crime No.567/2019 registered with Police Station, Rajapeth, Amravati for an offence punishable under Sections 363, 363A, 376(2)(n), 376(2)(j) read with Section 34 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

According to the learned counsel for the applicants, the victim is in habit of lodging false complaint against the applicants and their relatives. He submits that the victim has already attended majority, though prosecution is claiming her as minor. He submits that in the first

information report no role is spelt out against the applicants. Therefore, looking to their age, they be released on anticipatory bail.

The learned Additional Public Prosecutor for State Mr. Ghurde has filed detailed reply opposing the application for anticipatory bail.

From the reply it is clear that victim is a “Child” within the meaning of Clause (d) of Section 2(1) of the Protection of Children from Sexual Offences Act (for short “POCSO Act”). Whether she attended majority or she is a child, is a matter of trial. However, at this stage *prima facie* material has to be seen and it shows that she is a “Child” within the meaning of POCSO Act.

Sum and substance of prosecution case is the victim, who is also relative of the present applicants, was forcibly taken to Kanholi, Taluka Daryapur by co-accused as well as by the present applicants. There, as per prosecution case, the present applicant no.1’s duty was to see that she does not escape from their custody. Thereafter the other accused persons came. They are from Rajasthan and the applicant no.2 participated very actively in selling the said minor girl to the co-accused who are from Rajasthan and thereafter her marriage was performed though under law it was prohibited and thereafter the girl was taken to Rajasthan where she was sexually exploited not only by the pretended husband but by others on the pretext that they have paid Rs.1,00,000/- for her. The reply would show that one social worker Sau. Padma Puri extended helping hand to

said victim girl and she was brought to Maharashtra and thereafter the report was lodged.

Only Rajendra and one Kaminibai are arrested. All other accused persons till today are successful in avoiding their arrest.

Merely because the age of the applicants being 19 years and 20 years, in my view, that cannot be the circumstance which can be counted in their favour especially when they have participated very actively in one of the most heinous crimes of selling a minor girl, who ultimately was sexually exploited, assaulted in Rajasthan. There was no occasion for the victim's marriage to be performed with a person belonging to the State of Rajasthan.

Looking to the role which has been spelt out against the present applicants till this date in the investigation, in my view, their custodial presence is absolutely necessary for further investigation in this heinous crime. Consequently, the application is rejected.

JUDGE

srwagh