

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Application (APL) No. 1098 / 2021

State of Maharashtra .. Applicant

Versus.

Balakram Manraj Prajapati .. Respondent

Mr. S.V. Gavand, P.P. for the Applicant.

Ms. Shraddha Sawant, Advocate appointed through Legal Aid for Respondent.

Mr. H.G. Oulkar, A.P.I., Kolsewadi Police Station.

CORAM : SANDEEP K. SHINDE J.

DATE : 9th DECEMBER, 2021.

P.C. : -

1. This application challenges the order of remand dated 26th November, 2021 by which, learned Sessions Judge, Thane remanded Respondent-Accused to the Magisterial Custody without appreciating the gravity and the seriousness of the offence alleged against him.

2. The Respondent was arrested on 25th November, 2021 at 21.24 hours, on the accusations of committing the offence under the Protection of Children from Sexual Offences Act, 2021 (POCSO). He was produced before the learned Sessions Judge on 26th November, 2021 with a report seeking his police custody. The learned Sessions Judge declined to remand him police custody on the ground that Investigating Officer has not produced the case diary and apprised the progress in the investigation. Feeling aggrieved by the order dated 26th November, 2021, State has filed this application.

3. On 8th December, 2021, upon hearing Mr. Gavand learned Prosecutor for the State, notice was directed to the Respondent and made returnable on 9th December, 2021.

4. Heard. Mr. Gavand, learned Prosecutor for State and Ms. Shraddha Sawant, appointed Advocate for Respondent.

5. Herein, Respondent came to be arraigned as Accused,

upon the supplementary statement of the victim came to be recorded. The kind of allegations made against the Respondent being serious in nature, custodial interrogation of Respondent is inevitable. Having regards to the facts of the case, in my view, the police cannot be denied their right to interrogate the Respondent by seeking his police custody. In that view of the matter, the impugned order dated 26th November, 2021 passed by the learned Additional Sessions Judge in Crime No. 425/2021 registered with Kalwa Police Station, is set aside.

6. Thus, the Respondent is remanded to the police custody.

7. Be that as it may, the State shall ensure that the law laid down by the Hon'ble Supreme Court in the case of Central Bureau of Investigation Vs. Anupam Kulkarni; as regard to the custody of Respondent would be followed strictly.

8. The Application is allowed in the aforesaid terms and disposed of.

9. All concerned to act on authenticated copy of the order.

(SANDEEP K. SHINDE, J.)

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by MOHAMMAD
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