

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

CRIMINAL APPLICATION (ABA) NO.47 OF 2021

(Dnyaneshwar Motiramji Thorat Vs. State of Maharashtra thr. PSO PS Kholapuri
Gate, Tq. & Dist. Amravati)

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

Court's or Judge's orders.

Mr. S.I. Ghatte, Advocate for Applicant.
Mr. S.S. Doifode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 22nd FEBRUARY, 2021.

The applicant is apprehending arrest in Crime 05/2021 registered with Police Station Kholapuri Gate, Amravati, District Amravati for offences punishable under Sections 12 and 18 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

2. I have perused the statement of the minor recorded under Section 164 of the Criminal Procedure Code, 1973.

3. The minor states that the applicant, over a period of one year, demanded that the minor participate in some sexual act. The minor makes no reference to any assault or then attempt to commit assault. In contradistinction the statements of the mother of the minor and some relatives make a reference to an attempt made by the applicant to

run over the minor with motor-cycle. Notably, the statement of the minor was recorded not only by the police, the same was recorded even by the Child Welfare Committee and in response to a specific query, the minor denied that the applicant assaulted him.

4. It is pointed out by the learned APP that the applicant faced a similar prosecution initiated on the complaint of a minor. However, in the facts of the present case, the possibility that some advantage or rather disadvantage is taken of the pending prosecution to implicate the applicant, cannot be ruled out.

5. The applicant and the family of the minor are not on good terms although the applicant is said to be a relative. The applicant has lodged complaint against the father and uncle of the minor on the basis of which offence under Sections 452, 294, 506 read with Section 34 of the Indian Penal Code is registered at Kholapuri Gate, Amravati on 17.04.2020. It further appears that the uncle and father of the minor were arrested in Crime 215/2020 under Sections 354, 354-A, 294, 506 read with Section 34 of the Indian Penal Code and Sections 8 and 12 of the POCSO Act on the basis of complaint lodged by the minor niece of the applicant.

6. Considering the bitter rivalry, the fact that the family members of the minor are prosecuted either at the

instance of the applicant or his niece, the allegation that since one year the applicant was asking the minor to indulge in some obscene act, and that no cognizance was taken by the family members of the minor, will have to be taken with a pinch of salt.

7. In any event, considering the nature of the accusations custodial interrogation is not necessary nor is the investigation likely to be adversely affected if the interim protection granted vide order dated 05.02.2021 is made absolute.

8. The interim protection granted vide order dated 05.02.2021 is made absolute with the only modification that till the charge-sheet is filed, the applicant shall attend the concerned police station as and when required by the Investigating Officer.

JUDGE