

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 404 OF 2021

APPLICANT :-

Shri Arun s/o Sakharam Raut, Aged about 46 Yrs, Occupation – Service, At Post : Kalamba (Mahali), Tah. & Dist. Washim.

At Present Qtr.No.1, Ashiyana Police Officer Quarter, Purna 1, Wadali Road, Chaprashhi Pura, Amravati.

...VERSUS...

RESPONDENT:-

1. State of Maharashtra, Through – P.S.O., Maregaon Police Station, Tah. & Dist. Yavatmal.

(INFORMANT)

2. Sub-Divisional Police Office, Wani, Tah. & Dist. Yavatmal.

Ms Vaishali Khadekar, Advocate for the applicant.
Ms Mayuri Deshmukh, APP for the respondents.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.

DATED : 20.04.2021.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.

2. **Rule.** Rule is made returnable forthwith.

3. By this application under section 482 of the Code of

Criminal Procedure, the applicant has challenged registration of First Information Report No.198 of 2020, dated 17/08/2020 for the offences punishable under sections 166-A 167, 201 and 221 of the Indian Penal Code, section 21 of Protection of Children from Sexual Offences Act, 2012 and section 4 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and section 145 of the Maharashtra Police Act.

4. The First Information Report came to be registered against the applicant and others on the basis of order passed by the Additional Sessions Judge, Kelapur. It is alleged that in the First Information Report that the accused persons committed forcible sexual intercourse with Adivasi girl, aged 10 years. It is alleged that though the victim suffered serious injuries and was required to be hospitalized. The accused who are Police officials refused to register report of the relatives of the victim.

5. The learned Advocate for the applicant invited our attention to the order passed by this Court in Criminal Writ Petition No.43 of 2021 dated 21/01/2021. She further submitted that since the petitioner in Criminal Writ Petition No.43 of 2021 is co-accused in the crime lodged against the applicant and others, similar orders may be passed.

6. We have carefully considered the allegations in the First Information Report. From the allegations in the report, it appears that the victim is Adivasi girl aged 10 years on the date of incident. The applicant is Assistant Police Sub-Inspector. It is alleged that the applicant and other Police officials had forcible sexual intercourse with the victim and refused to register complaint of relatives of victims. The allegations against the applicant are serious in nature. An overall perusal of material placed before us makes out a *prima facie* case against the applicant, which requires to be decided by conducting a proper trial. At this stage, we cannot analyze and meticulously consider the evidence and anticipate whether it will end up in conviction or acquittal. This is not a stage to decide whether there is any truth in the allegations made but, to form an opinion whether on the basis of the allegations cognizable offence as alleged has been *prima facie* made out. The guilt or otherwise of the accused – applicant can be proved only after conducting a full-fledged trial. In the circumstances, it is not proper for us to interfere with the proceeding and quash First Information Report.

7. Though this Court in Criminal Writ Petition No.43 of 2021 has issued notice, the said order will not operate as a binding precedent, particularly in view of serious allegations made against the applicant

namely committing forcible sexual intercourse with Adivasi girl aged 10 years.

6. We, therefore, find no merit in the application. Hence, the application is dismissed.

7. Rule stands discharged.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)