

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

CRIMINAL APPLICATION (BA) NO.826 OF 2021

(Ghanshyam s/o Ramkisan @ Ramkrushna Pawar Vs. State of Maharashtra thr. PSO
PS Washim City, Tah. & Dist. Washim)

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

Court's or Judge's orders.

Mr. D. M. Mudgale, Advocate for Applicant.
Mr. N. R. Rode, APP for Non-Applicant/State.
Mrs. P. D. Rane, Appointed Advocate for victim.

CORAM: ROHIT B. DEO, J.

DATE: 20th SEPTEMBER, 2021.

The applicant, who is the husband of the maternal aunt of the victim, then aged 12 years, is seeking bail in connection with Crime 285/2021 registered with the Washim City Police Station for offences punishable under sections 366A, 372, 376, 376 (2)(i)(j)(n), 354, 354A, 343, 323, 504, 506, 373 and 376 (3) read with section 34 of the Indian Penal Code and sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and sections 9 and 10 of the Prohibition of Child Marriage Act.

2. The crime is registered on the basis of report dated 11.04.2021 lodged at the Washim City Police Station by the maternal aunt of the victim. The prosecution case, which can be culled out from the report, the statement of the victim and the material on record is as follows.

3. The informant has four married sisters. The victim is the daughter of the eldest sister whose husband Sitaram died in 2009. The mother of the victim re-married. The custody of the victim and her brother was entrusted to her maternal aunt Radha, who is the wife of the applicant. The gist of the prosecution case is that the victim went missing in the year 2016 and when the informant and other family members mulled lodging report, the applicant discouraged them. The victim was recovered from village Bardoli, District Surat, Gujarat by the Bardoli police. The victim revealed a sordid saga of sexual exploitation. The statement of the victim is that the applicant used to pester her to marry an acquaintance of his friend Subhash Pawar, who is based in Rajasthan. Jayendra Pawar, who is the brother of the applicant, also used to persistently ask the victim to marry. The victim refused to oblige since she was hardly 12 years old. The victim states that the applicant and Jayendra Pawar used to threaten to marry her forcibly. On the fateful day, the applicant took the victim to Washim Bus Stand and asked her to go with his brother Jayendra Pawar for an outing and left. Jayendra Pawar took the victim to Akola and at the Akola Railway Station Jayendra Pawar was joined by Subhash Pawar and one lady. Jayendra Pawar, Subhash Pawar and the lady took the victim to Mumbai where they stayed for two days and then they went to Rajasthan by train. During the train journey the three were discussing the prospects of selling the victim. The group disembarked at a

Railway Station in Gujarat and then left for Rajasthan by another train. Subhash Pawar went out in search of prospective customers willing to purchase the victim and returned with an unidentified man. Subhash Pawar and the lady companion then took the victim to District Sikar and then to Lichamgarh. The victim was administered some juice like substance. She lost consciousness and when she regained consciousness the person present identified himself as Sandeep Hanuman Bangadwa, aged 40 years and claimed to have purchased the victim for Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only). The said Sandeep then took her to village Dagra where the victim was forced to work in the field, physically and emotionally abused and sexually exploited not only by Sandeep Hanuman Bangadwa, but by his two brothers. The victim disclosed her plight to one Devilal Hanuman, who did not initially believe her. Ultimately Devilal Hanuman relented and helped the victim to escape. Devilal Hanuman reached the victim to first to Lichamgarh and then arranged bus travel to Jaipur and he paid Rs.1000/- (Rupees One Thousand only) to meet the travel expenditure. The victim hitch hiked a ride to Surat and while she was making inquiries about the Mumbai bound trains a policeman approached her, to whom the victim made the disclosure of what she underwent in the last few years.

4. The learned counsel for the applicant would submit that the report is belatedly lodged. The submission is

noted only as a courtesy to the learned counsel. The report is lodged when the victim could escape her tormentor and there is absolutely no delay much less delay as would dilute the credibility of the prosecution case. The other submission is that the applicant Ghanshyam played an extremely limited role in the crime, which submission again deserves out right rejection. The applicant has played a prominent role in the heinous offence and allegedly sold the 12 years old daughter of his wife's sister. The applicant, who was expected to protect the victim, allegedly turned predator and there perhaps cannot be a more heinous crime, assuming that the material on record translates into evidence in the trial. At this stage, I am satisfied that there is formidable material on record to connect the applicant with the crime. Apart from the heinous nature of the offence and the severe punishment which conviction may entail, the applicant is a close relative and the possibility of he being in a position to subvert the witnesses is a real possibility.

5. No discretion can be exercised in favour of the applicant.

6. The fees of the appointed counsel be quantified and paid in accordance with the rules.

JUDGE