

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO.84 OF 2022**

(DR. KUMARSINGH JAGJIVANRAM KADAM & ANR....VS.. STATE OF MAH. THR. PSO PS ARVI,  
DIST. WARDHA.)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri S.P.Dharmadhikari, Sr. Adv. a/b Shri C.S.Dharmadhikari, Adv. for Applicants  
Shri V.A.Thakre, A.P.P. for Non-applicant/State.  
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**CORAM : ANIL S. KILOR, J.**  
**DATED : FEBRUARY 14, 2022.**

1. This is an application under Section 438 of the Code of Criminal Procedure for grant of bail in the event of arrest of the applicants in Crime No. 25 of 2022 dated 09/01/2021, registered with Police Station, Arvi, District : Wardha in respect of the offence punishable under Sections 376(3), 376(2)(n), 312, 313, 315, 341, 201, 506 read with Section 34 of the Indian Penal Code and under Sections 4, 6 and 21(1) of the Protection of Children from Sexual Offences Act, 2012.

2. It is the case of the prosecution that the complainant lodged a complaint on 09/01/2022 alleging that her minor daughter aged 13 years was 5 months' pregnant as accused No.1 committed forcible sexual intercourse with her. On 03/01/2022 the victim was taken to the hospital of Dr. Kadam and she was examined by the accused No.4-Dr. Rekha Kadam. It is further

alleged that Dr. Rekha Kadam demanded Rs.30,000/- for treatment and termination of pregnancy. The victim was admitted in Kadam Hospital on 04/01/2022 and on 06/01/2022 she was discharged on termination of pregnancy.

3. Heard learned Senior counsel for the applicants and the learned A.P.P. for the State.

4. Shri S.P.Dharmadhikari, learned Senior Advocate submits that the applicant No.1 is 84 years old and applicant No.2 is 78 years old and they have stopped practice long back. It is submitted that names of the applicant do not appear in the First Information Report and there are no allegations made against the applicants in the FIR. It is submitted that there is nothing to show even the *prima-facie* involvement of the applicants in the alleged offence.

5. Shri Dharmadhikari, learned Senior Advocate has pointed out that about termination of pregnancy the allegations are against the daughter-in-law of the applicants viz. Dr.Rekha Kadam. However, there is nothing against the applicants to show any involvement against the applicants in the alleged offence. He, accordingly, submits that in absence of any incriminating material against the applicants, the applicants are entitled for grant of bail in the event of their arrest in the alleged

offence.

6. It is pointed out that on 3<sup>rd</sup> February 2022 this Court has granted interim protection to the applicants.

7. On the other hand, Shri Thakre, learned APP strongly opposed the application and submits that the Certificate under the Maharashtra Nursing Home Registration Act, 1949 is in the name of applicant No.1, whereas the certificate of Medical Termination of Pregnancy is registered in the name of applicant No.2. He further points out that a cash was recovered from the house of the applicants and therefore, according to him, during investigation sufficient material has been collected by the Investigating Agency to show involvement of the applicants in the alleged offence.

8. I have gone through the police diary which was made available by the learned A.P.P. for perusal and also I have gone through the contents of the FIR.

9. On going through the FIR, admittedly, no allegations are made against the applicants and initially it was not registered against the applicants, but, they were impleaded as accused subsequently.

10. The allegations made in the FIR are against Dr.Rekha Kadam and from the application it is clear that

the applicant No.1 is 84 years old and applicant No.2 is 78 years old. The learned A.P.P. is not disputing the said fact. Nothing has been pointed out by the learned A.P.P. contrary to the submissions made by the learned Senior Advocate that the applicants have stopped their practice 10 years back. Moreover, *prima facie*, the certificate of Medical Termination of Pregnancy is registered in the name of applicant No.2 and certificate under the Maharashtra Nursing Home Registration Act, 1949 in the name of the applicant No.1, is not sufficient to hold that the applicants are involved in the alleged offence.

10. In that view of the matter and as nothing has been pointed out why the custody of the applicants, is necessary, I am of the opinion that the order passed by this Court on 03/02/2022 needs to be confirmed. Hence, I pass the following order:

- i) The application is **allowed**.
- ii) The order, passed by this Court on 03/02/2022 is hereby confirmed.
- iii) The applicants shall attend the concerned Police Station whenever their presence is required.

- iv) It is made clear that the Investigating Officer shall give written 24 hours intimation to the applicants whenever their presence is required.

The application stands **disposed of** accordingly.

**JUDGE**

*RRaut..*