

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

CRIMINAL APPLICATION (ABA) NO.346 OF 2022

(ASHISH DAGDU MULE....VS.. STATE OF MAH. THR. PSO PS, DIGRAS, YAVATMAL & ANR.)

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

Court's or Judge's orders

Shri S.G.Varshani, Advocate for Applicant.
Shri V.A.Thakre, A.P.P. for Non-applicant/State.
Ms Preeti Rane, Advocate (Appointed) for Non-applicant No.2.

CORAM : ANIL S. KILOR, J.
DATED : JULY 06, 2022.

1. Heard.
2. This is an application under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail in connection with Crime No.263 of 2022, registered with Police Station, Digras, District: Yavatmal for the offences punishable under Sections 354, 354-A, 354-D, 506 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.
3. The learned counsel for the applicant submits that the present First Information Report (FIR) is the outcome of the complaint dated 15/04/2022 made to Sarpanch, Up-Sarpanch, Secretary and Members of Gram Panchayat, Isapur, Tahsil : Digras, District : Yavatmal and copies were forwarded to Tahsildar and Police Station Officer, Police Station, Digras complaining about the illegal activities of one Pramod Shalik Bhagat and

Mungshiram Ukandrao Mohade. It is submitted that because of this complaint, the FIR came to be lodged against the son of Dagdu Mule who was the complainant in the said complaint. Thus, he submits that the applicant has been falsely implicated in the alleged offence.

4. As far as service of copy of the complaint on the police is concerned, today the learned counsel for the applicant has filed an affidavit stating that the copy was tendered to the police, however, no acknowledgment was given.

5. The learned counsel for the applicant has placed reliance on the judgment of coordinate bench of this Court in the case of *Omkar Abasaheb Gaikwad ..vs.. State of Maharashtra* (ABA St. No.4987/2020), wherein this Court has held that offence under Section 7 and punishment under Section 8 of the Protection of Children from Sexual Offences Act, 2012 would not be attracted unless and until the sexual intent is specifically proved.

6. On the other hand, the learned A.P.P. strongly opposed the application and submits that considering the nature of the allegations and the material collected during the investigation, it cannot be said that the present FIR is the outcome of the complaint dated 15/04/2022 on which the applicant is relying upon. He submits that, about sexual intent specific allegation is there.

7. The learned A.P.P. further submits that the offence is very serious and if the applicant is released on bail there is every possibility that he may pressurize the prosecution witnesses. In that view of the matter, he prays for rejection of the present application.

8. Ms Preeti Rane, learned counsel for the non-applicant No.2 reiterates the submissions of the learned A.P.P. and prays for rejection of the present applicant.

9. I have perused the case diary and the FIR.

10. The allegations made against the applicant show that it is a specific case of the prosecution that with sexual intent he caught hold the hand of the victim. Even the words uttered by the applicant at the relevant time shows the intention of the applicant. In that view of the matter, the judgment cited by the learned counsel for the applicant is of no help to him.

11. From the material collected by the Investigating Officer during the investigation and considering the allegations made in the FIR, I am of the opinion that *prima-facie* it cannot be said that the FIR is an outcome of the complaint dated 15/04/2022 made by the father of the applicant against the father of the victim.

12. Thus, considering the seriousness of the offence and severity of the punishment and further

possibility that if the applicant is released on bail he may pressurize the prosecution witnesses, I am not inclined to grant bail. Accordingly, I pass the following order :

The application is **rejected**.

Fees of the learned counsel appointed to represent the victim /non-applicant No.2 be quantified as per the Rules.

JUDGE

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