



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

CRIMINAL APPLICATION (ABA) NO. 121 OF 2024

Ram Kumar s/o Durgesh Kumar Saxena
Vs.

State of Maharashtra, Through Police Station Officer Yashodhara Nagar,
Nagpur and another

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

Court's or Judge's orders

Mr. M. V. Rai, Advocate for applicant.
Mr. A. B. Badar, APP for respondent No.1/State.
Mr. N. C. Vaidya, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/04/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.911/2023 registered under Sections 341 and 354-A(1)(i) of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by the mother of the victim girl alleging that on 20/12/2023 when the victim was returning from Tuition Class, the present applicant expressed his feelings that he loves her and also, physically contacted her by touching her breast and outraged her modesty. On the basis of

said report, police have registered crime against the present applicant.

3. Learned counsel Mr. Rai, for the applicant submitted that as far as allegations are concerned, the offence is not made out as there is no physical touch by the present applicant. He further submitted that due to misunderstanding, this report came to be lodged. The custodial interrogation of the present applicant is not required. He submitted that at the most the offence of stalking would be made out against the present applicant for which punishment upto three years is provided and prayed for confirmation of the interim protection granted to the present applicant.

4. Learned APP and learned Counsel for the respondent No.2 strongly opposed the application on the ground that the incident was recorded in CCTV footage also which shows that the applicant sexually harassed the victim girl with sexual intent. In view of that, the custodial interrogation is required and the application deserves to be rejected.

5. Having heard the learned counsel for the applicant and learned APP for the State, perused the investigation papers including the statement of the victim recorded by the police as well as recorded under Section 164 of the Code of Criminal Procedure as well as the panchnama CCTV footage. From the

statement of the victim and the CCTV footage it reveals that when victim was proceeding towards her house after attending the tuition class, the applicant restrained her and there was communication between them and the applicant has touched on her shoulder. This fact is also substantiated by the CCTV footage as panchnama of CCTV footage also shows that there was touched by the applicant on her shoulder. Thus, considering the allegation at the most the offence of stalking is made out against the present applicant for which punishment upto three years is provided. The custodial interrogation of the present applicant is not required as nothing is to be recovered from him. However, considering the apprehension raised by the learned APP, the ad-interim protection granted to the present applicant deserves to be confirmed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

i] The application is allowed.

ii] In the event of arrest, the applicant **Ram Kumar s/o Durgesh Kumar Saxena** be released on anticipatory bail in connection with Crime No.911/2023 registered under Sections 341 and 354-A(1)(i) of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

iii] The applicant shall attend the concerned Police Station as and when required

for the investigation purpose and shall cooperate with the investigating agency.

iv] The applicant shall not enter into the vicinity i.e. Bhilcity, Bhilgaon, Police Station, Yashodhara Nagar, Nagpur, till culmination of the trial.

v] The applicant shall not induce, threat or promise any witnesses, who are acquainted with the facts of the present case.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)