



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

CRIMINAL APPLICATION (BA) NO. 280 OF 2024

Arun Natthuji Potey V/s State of Maharashtra and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Y.A. Kullarwar, counsel for the applicant.
Mrs. Ritu Verma, APP for the non-applicant/State.
Ms. M.S. Kotecha, counsel for the non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/05/2024.

1. The applicant came to be arrested on 14/04/2023, in connection with Crime No. 276/2023 registered with Police Station Hudkeshwar, District Nagpur for the offence punishable under Sections 354, 506, 447, 476 and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The accusation against the present applicant is on the basis of report lodged by mother of the victim on an allegation that on 14/04/2023 her two daughters were in the house and one person came in front of the house and asked them address, she has narrated the address but, thereafter again, he came near the house, at that time, her daughters were playing in the house and he disclosed that he could not trace the address and thereafter, asked for the water, when the water was given to him, he hold her daughter and kissed her forcefully. On the basis of report, the police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that considering the allegation against the present applicant for sufficient period, he is already behind bar. Now investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required. He further submitted that on suspicion, the FIR is lodged against the present applicant. In fact, it is the misidentification of the person, present applicant is falsely implicated.

4. Learned APP and learned appointed counsel has strongly opposed the present application on the ground that, considering in presence of the mother, both the girls are subjected for sexually harassment by the present applicant, if he is released on bail, he would tamper with the prosecution evidence and would commit similar types of offence. Hence, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR. From the recitals of the FIR, it reveals that in presence of the informant, the present applicant has sexually harassed the victim girl, who is aged about six years. Admittedly, the investigation is already completed and charge-sheet is already filed, and allegation against the present applicant that he forcefully kiss on the lips of six years victim girl. Now, further incarceration of the present applicant is not required. However, considering the apprehension raised by the learned APP and learned appointed counsel, some conditions requires to be imposed on the present applicant. Accordingly, I proceed to pass the following order:

- a) The criminal application is **allowed**.
- b) The applicant – **Arun Natthuji Potey**, shall be released on bail, in connection with Crime No. 276/2023 registered with Police Station Hudkeshwar, District Nagpur for the offence punishable under Sections 354, 506, 447, 476 and Section 8 of the Protection of Children from Sexual Offences Act, 2012, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall not enter into the jurisdiction of the Hudkeshwar, Tah. & Dist. Nagpur till culmination of the trial.
- d) The applicant shall not in any manner communicated with the victim or her parents and shall not induce, threat or promise any witnesses, who are acquainted with the facts of the present case.
- e) The contravention of any of the conditions would lead to the cancellation of bail of the present applicant.
- f) The fees of the appointed counsel be quantified as per the Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]