



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

CRIMINAL APPLICATION (ABA) NO. 312 OF 2024

Azhar Ali s/o Mehmood Ali 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. R.J. Mirza, counsel for the applicant.
Ms. T.H.Udeshi, APP for the non-applicant/State.
Mr. Amit Bhate, counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/07/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 210/2024 registered with Police Station Akot File, Akola, Tq. and District Akola for the offence punishable under Sections 363, 354, 354-A, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the Act of 2012'), the applicant approached to this Court for grant of pre-arrest bail.

2. Learned counsel for the applicant submitted that, the crime is registered against the unknown person on the basis report lodged by mother of the victim. Subsequently, it is alleged that the present applicant has abducted the victim, who is aged about 17 years 07 months and subjected her for sexual assault. On the basis of said report, the police have registered the crime against the

present applicant. In fact, there was love affair between the victim and the applicant. On the day of incident, victim had a quarrel with her brother, therefore, she left the house and went at her friends house at Katepurna. Thereafter she made a phone call to the present applicant, but the present applicant has sent his sister and the husband of the sister there. The victim was insisting him to perform the marriage, but the applicant has convinced her that she has to attend the age of majority and therefore, denied to perform the marriage. Thereafter, the parents of the victim took her and the false report is lodged against the present applicant.

3. He submitted that after interim protection granted to the present applicant, he has cooperated with the investigating agency. Now, investigation is practically completed, as far as the custodial interrogation is concerned, which is not required.

4. The learned APP strongly opposed the said application on the ground that victim was having golden chain in her neck, as per the investigation papers, and custodial interrogation of the present appellant is required for the recovery of the said chain.

5. Learned counsel Mr. Amit D. Bhate for the victim also endorsed the same contention and submitted that, a minor girl whose consent is not relevant, is subjected for sexual assault, and therefore, the application deserves to

be rejected. He also pointed out that after interim protection was granted one N.C. Report is filed against the present applicant, as he has threatened the family members of the victim.

6. After hearing learned counsel for the applicant and on perusal of the investigation papers from which, it reveals that the investigation papers has also collected the same photographs of the victim of the present applicant, which shows the nature of relationship between them. As far as the snatching of golden chain is concerned, there is no recitals in the FIR that at the relevant time, victim was wearing a gold chain. Thus, the allegation regarding snatching of the golden chain appears to be made after lodging of the FIR while filing the protest petition before the Session Court. As far as the custodial interrogation of the applicant is concerned, which is not required considering the nature of the offence. The applicant after getting the interim protection has already cooperated with the investigating agency.

7. As far as the contention of the learned counsel Mr. Amit Bhate is concerned that applicant has threatened the family members of the victim, can be taken care of by imposing certain conditions on the present applicant. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.

- b) The interim protection granted to the present applicant by order dated 08/05/2024 is confirmed on the similar terms and conditions.
- (c) The applicant is directed not to enter into the Akot File Area, Akola, Taluka and District Akola till culmination of the trial.
- (d) The contravention of any of the conditions imposed would lead to cancellation of the bail.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]