



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

CRIMINAL APPLICATION (BA) NO. 518 OF 2024

Sunderlal s/o Batu Kashyap Vs 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. P.K.Bezalwar, counsel for the applicant.

Mrs. H.N.Prabhu, APP for the non-applicant/State.

Mr. Y.A. Kullarwar, counsel (appointed) counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 30/07/2024.

1. The applicant came to be arrested on 04/04/2024, in connection with Crime No. 336/2024 registered with Police Station Wani, District Yavatmal for the offence punishable under Sections 377 of the Indian Penal Code, 1860 and Sections 3(a), 4, 5(1)(m) and 6 of the Protection of Children from Sexual offences Act, 2012.

2. Heard learned counsel for the applicant who submitted that as per the accusation against the present applicant that, he has subjected a minor victim boy for sexual assault by unnatural sexual activity and thereby committed an offence. He submitted that now investigation is completed, charge-sheet is filed, further incarceration of the applicant is not required. He further submitted that the FIR is rather delayed, and the alleged incident has taken place on 11/01/2024 whereas the occurrence occurred on 06/01/2024, whereas the FIR is lodged on 11/01/2024. Thus there is an inordinate delay in lodging the FIR. Now,

considering the investigation is completed and charge-sheet is filed, further incarceration is not required. The applicant be released on bail.

3. Learned APP and learned appointed counsel for victim strongly opposed the said application on the ground that the similar types of the offence is registered against the present applicant. The statement of the mother and father of the victim is also recorded in the present crime, which shows that present applicant is in habit of sexually assaulting the minor boys, if he is released on bail, there is every likelihood of committing the similar type of the offence. In view of that, application deserves to be rejected.

4. After hearing learned counsel for the applicant and after going through the investigation papers, it reveals that 12 years small boy was subjected for the unnatural sexual assault by the present applicant. Admittedly, he was referred for the medical examination but no injuries are found as the medical examination was at a belated stage. However, the statement of the victim boy and the statement of the other witnesses shows that present applicant is residing alone in the house, and she has subjected the other victim boy also for the sexual assault. The statement of another parents of the another victim boy also substantiated the said contention.

5. Thus, considering the repeated offence are registered against the present applicant and the apprehension raised by the learned APP and learned counsel

for the victim requires to be taken into consideration. In view of that, considering the prima-facie case is made out against the present applicant, this is not the fit case for grant of bail. Accordingly, I proceed to pass the following order:

- a) The criminal application is rejected.
- b) The fees of the appointed counsel be quantified as per the Rule.

[URMILA JOSHI-PHALKE, J.]