



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (BA) NO.668 OF 2024

(Raju @ Rajesh Shamraoji Ghabne and ors. Vs. State of Maharashtra)

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

Court's or Judge's Order

Mr. M.S. Wakil, Advocate for the applicant.
Mr. Gohokar, APP for the State.
Ms C.S. Bhute, Advocate for the victim.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- SEPTEMBER 19, 2024

The applicants came to be arrested on 16/03/2024 in connection with Crime No.188/2024 registered with police station Kamptee, District Nagpur for offences punishable under Sections 376(2)(j), 376(2)(i), 376(2)(n) of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of report lodged by the mother of the victim girl alleging that her daughter is aged about 15 years and suffering from mental disorder. On 15/03/2024 at about 8.00 PM when she was returning at home, at the relevant time, the woman who is residing in the same area restrained her and disclosed to her that when she and her husband leaving the house for work, in their absence her daughter is staying alone and the persons from the area are visiting her house, therefore, she should take care of the same.

3. She immediately came at home and disclosed the said fact to her husband also. Thereafter they enquired with the girl and the victim disclosed that in their absence, the applicants visits her house and subjected her for forceful sexual assault. On the basis of said report, police have registered the crime against the present applicants.

4. Learned Counsel for the applicants submitted that as far as the allegations are concerned which are not supported by any medical evidence. There are no injuries found on the person of the victim. Now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, they be released on bail.

5. Learned APP and learned Counsel for the victim strongly opposed the application and submitted that the statement of the victim, her disclosure to her mother sufficiently shows the involvement of the present applicants in the alleged offence. Applicant No.1 is 51 years old whereas applicant No.3 is 61 years old. The medical report shows that there were multiple old healed tear found during the examination of her genitals. It further reveals that the victim is not a normal person, she is suffering from mental disorder as her IQ is of a lower level. They submitted that considering that 3 applicants subjected her for forceful sexual assault which is substantiated by the statement of the victim as well as her

medical report. In view of that, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the recitals of the FIR as well as the statement of the victim and the statement of the mother from which it reveals that after receipt of the information from the person who is residing in the same area, the informant enquired with the victim on which victim disclosed that in their absence, present applicants visiting their house and subjected her for sexual assault. It further reveals from her statement that the applicants have also gave some money to her and by giving money they have not only subjected her for sexual assault but outraging her modesty also time and again. This fact is also substantiated by the medical report as medical report shows that she is not a normal girl and suffering from the mental disorder. The genital examination shows that there were multiple tears which found during the genital examination of the victim. Considering the circumstances under which victim was subjected for sexual assault and being victim is suffering from mental disorder as well as minor and she is subjected for sexual by all the three applicants, *prima facie* case is made out. In view of that, the application deserves to be rejected.

7. Accordingly, the application is rejected.

(URMILA JOSHI-PHALKE, J.)