



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

CRIMINAL APPLICATION (BA) NO. 711 OF 2024

Pankaj Ramchandra Meshram 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. S.P. Chavhan, counsel for applicant.

Ms. T.H. Udeshi, APP for non-applicant/State.

Mr. Aditya Pande, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 09/10/2024.

1. The applicant came to be arrested on 20/12/2022 in connection with crime No. 537/2022 registered with police Station Tumsar, District Bhandara for the offence punishable under Section 376(AB) of the Indian Penal Code, 1860 along with Section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of a report lodged by the maternal uncle of the victim girl on an allegation that on 28/02/2022, at about 2.00 p.m., the victim, aged about 4 years, was playing along with other children. At that time, he was at the house of his neighbour. At about 2.30, he heard noise in front of his house, and his niece was crying. At the relevant time, he inquired with his niece, and she disclosed that she was taken by the present applicant, and he disrobed himself as well as the victim and

thereafter subjected her for the sexual assault and also gave her a coin of one rupee and food stuffs. On the basis of the said report, police have registered the crime against the present applicant. During the investigation, the investigating officer has referred the victim for the medical examination. The statements of the relevant witnesses are recorded, including the shop owner and the cousin sister of the victim. From which, it reveals that applicant was seen along with victim coming out from the dilapidated house. After completion of the investigation, the chargesheet was submitted against the accused.

3. Heard learned counsel for the applicant, who submitted that applicant is behind bar since the date of his arrest. There is no progress in the trial. Now, the investigation is already completed, and charge-sheet is filed. She submitted that the allegation is not substantiated by medical evidence. As far as the statements of the witnesses are concerned, as there was a previous dispute between the family members of the victim of the present applicant who is falsely implicated in the alleged offence. The trial would take its own time for its financial disposal, and therefore, the applicant be released on bail.

4. Learned APP and learned counsel for the victim strongly opposed the said application and invited my attention towards the various statements of the witnesses as well as the statement of the victim and submitted that a four

year old girl was subjected for sexual assault by promising her to give the food stuff as well as a coin of one rupee. The circumstantial evidence shows that the victim was seen along with the present applicant coming from a dilapidated house, as well as the statement of the shop owner, which also shows that the victim has purchased food stuff from the grocery shop. Thus, circumstantial evidence sufficiently shows that the victim was along with the applicant. The statement of the victim and the child who was playing with the victim also shows that she went along with the present applicant. Thus, considering the prima facie case of the present applicant and considering the fact that a four years girl was subjected in this incident, hence the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP as well as counsel for the complainant, perused the investigation papers. From which it reveals that a four years girl was subjected for sexual assault by the present applicant. The allegation is substantiated by the circumstantial evidence, like the statement of the cousin sister of the victim, who witnessed the present applicant coming from the dilapidated house along with the victim, and the statement of the shop owner, who saw the victim coming into the shop with a coin in her hand. Thus, a prima facie case is made out against the present applicant. Considering the gravity of the offence, that a minor girl of four years was subjected for sexual assault by the applicant,

who is a grown up man. Hence, the application deserves to be rejected. 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 Rule.

[URMILA JOSHI-PHALKE, J.]