



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

CRIMINAL APPLICATION (ABA) NO. 554 OF 2024

Sanjay s/o Laxman Shirkare and others 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. D. Mehenge, counsel for applicants.

Mrs. Swati Kolhe, APP for non-applicant/State.

Ms. Radha Mishra, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 30/08/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 256/2024 registered with police station Borakhedi Police Station, District Buldhana for the offence punishable under Section 363, 366 read with Section 34 of the Indian Penal Code, 1860 and Section 8 and 12 of the Protection of Children from Sexual Offences, Act 2012 (hereinafter referred as 'POSCO Act'), the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by the father of the victim on an allegation that the victim is his daughter, aged about 15 years and 5 months, and is residing along with her. On 19/05/2024, at about 10.30 p.m., he along with his children went to sleep. When he woke up at about 12.20 p.m., his daughter was not in the house; therefore, he searched for her, but he could not trace her. Therefore, he lodged the report against the present applicants, alleging that the present applicants kidnapped

her on the promise of her marriage. On the basis of the said report, police have registered the crime against the present applicants.

3. Learned counsel for the applicants submitted that the present applicants are the relatives of the victim, and the victim approached him for dropping her at her mother's house, as the mother is not residing along with the informant, and therefore, he only took the victim and dropped her at her mother's house, which is disliked by the informant, and therefore, this false report is lodged against him. He submitted that, considering the statement of the victim, he be protected by granting anticipatory bail.

4. Learned APP and learned counsel for the victim strongly opposed the said application on the ground that it was the present applicants who promised her for marriage and took her from the lawful custody of her father, and therefore, prima-facie case is made out against the present applicant. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicants and learned APP for the State, perused the investigation papers, from which it reveals that on the day of the incident, the victim approached to the present applicants to drop her at her mother's house, and therefore, the present applicants took her on his motorcycle and dropped her at her mother's place, and thereafter, the father of the victim lodged the report. The statement of the mother of the victim as well as

the first statement of the victim also substantiate the same. The second statement was recorded after 15 to 20 days, wherein she stated that her earlier statement was due to the pressure of the present applicants. In fact, present applicants have kidnapped her, assaulted her, and also obtained her photographs. The second statement is recorded after 10 to 15 days of the first statement. Thus, considering the first statement as well as the statement of the mother of the victim, it reveals that the victim went along with present applicants to visit her mother's place. At this stage, the applicants have made out the case for grant of anticipatory bail. In view of that, the application deserves to be allowed.

- a] The criminal application is **allowed**.
- b] In the event of her arrest, in connection with Crime No. 256/2024 registered with police station Borakhedi Police Station, District Buldhana for the offences punishable under Section 363, 366 read with Section 34 of the Indian Penal Code, 1860 and Section 8 and 12 of the Protection of Children from Sexual Offences, Act 2012, the applicants –(1) Sanjay Laxman Shirkare (2) Ganesh Sanjay Shirkare (3) Vijay Sanjay Shirkare, shall be released on anticipatory bail, on executing P.R. bond of Rs. 25,000/- each with one solvent surety in the like amount.

- c] The applicants shall attend the concerned police station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- d] The applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- e] The fees of the appointed counsel be quantified as per Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]