



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

CRIMINAL APPLICATION (BA) NO.1051 OF 2024

(Suryabhan s/o Janardhan Fupate Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Mr. A.M. Jaltare, Advocate a/w Mr. N.D. Dawda, Advocate for the
applicant.

Ms K. Bhondge, APP for the State.

Ms Ragini Swami, Advocate for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- DECEMBER 16, 2024.

Heard.

2. By this application, the applicant is seeking bail as he came to be arrested on 23/08/2024 in connection with Crime No.395/2024 registered with police station Risod, District Washim for the offence punishable under Sections 137(2), 3(5), 64(2)(i) and 65(1) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 5(n), 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The crime is registered on the basis of report lodged by the mother of the victim girl on an allegation that her daughter victim is aged about 13 years and 9 months. On 20/08/2024 she left the house on the pretext of attending the nature's call and not returned back. It is further alleged that she was talking with somebody else on mobile phone, and therefore, she suspected that some

person has abducted her on the promise of marriage. On the basis of the said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that as far as the role assigned to the present applicant is concerned, only to the extent of abetment. It is alleged by the victim that present applicant and other co-accused Ganesh assisted other co-accused Pandhari Ram Fufate to abduct the victim girl and thereafter the co-accused Pandhari has subjected her for the sexual assault. He submitted that consistently the statement of the victim shows the role attributed to the present applicant is to the extent of abetment. Now, the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, he be released on bail.

5. Learned APP and learned Counsel for the victim strongly opposed the application and submitted that the role assigned to the present applicant was admittedly to the extent of abetment but then there is a positive act on the part of the present applicant who took the victim girl by threatening her and thereafter the co-accused has subjected her for the sexual assault. They both have submitted that there is a threatening by the present applicant also to the victim girl, and therefore, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that as far as the present applicant is concerned only allegation is that he assisted the other co-accused to take the victim along with him. As far as the allegation of sexual assault or sexual harassment is concerned against the co-accused. Now, investigation is completed and charge-sheet is filed. Considering the role attributed to the present applicant, the applicant has made out a case for grant of bail. At the same time, the apprehension raised by the prosecution requires to be looked into. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Suryabhan s/o Janardhan Fupate in connection with Crime No.395/2024 registered with police station Risod, District Washim for the offence punishable under Sections 137(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing P.R. bond of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Risod city till culmination of the trial.

(iv) The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(vi) A single incident of threatening would lead to the cancellation of bail.

7. The application is disposed of.

8. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*