



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

CRIMINAL APPLICATION (ABA) NO. 803 OF 2024

Pankaj s/o Vishwanath Lahole 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. D.K. Anandani, counsel for applicant.

Ms. Kavita Bhondge, APP for non-applicant/State.

Ms. Kirti Deshpande, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/12/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 412/2024 registered with Police Station Civil Lines, Akola for the offence punishable under Sections 323, 376, 376(2)(n), 504 and 506 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of the report lodged by the victim girl on an allegation that at the relevant time, she was below 18 years of age and there was a love affair with one boy. She was communicating with the said boy, and this fact revealed to the present applicant therefore, the present applicant informed her that he would disclose this fact to her parents. She apologized to him and said that he should not disclose the fact of the love affair with one Rutik Rajesh Sangle to her parents. On that count, the applicant has called her at his own and subjected for the sexual assault and also obtained her

obscene photographs. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that as far as the alleged incident is concerned, except the bare statement of the victim, there is no material to connect the present applicant with the alleged offence. The present applicant is implicated merely because he came to know about the affair of the victim with one boy, and he told her that he would inform the said fact to her parents, and he should not disclose the said fact to the parents therefore, he is falsely implicated. She submitted that as far as the investigation part is concerned, which is already completed. The medical examination of the victim is also carried out, and it is also not supporting the prosecution case. The medical opinion shows that the last incidents happened prior to the four months. Thus, considering that the medical evidence is also not supporting the allegation and there is the possibility of false implication as the love affair was revealed to the present applicant and the victim was apprehending that he would disclose the same to her parents. Considering now the investigation is completed and custodial interrogation of the present applicant is not required, as far as the aspect of seizure of the mobile is concerned, the applicant is ready to produce the same before the investigating officer, in view of that, he be protected by granting anticipatory bail.

4. Learned APP and learned counsel for the victim strongly opposed the said application and submitted that considering the fact that obscene photographs and obscene videos are obtained by the present applicant, his custodial interrogation is required. In view of that, the application deserves to be rejected.

5. Learned APP further submitted that the victim was a minor at the time of the incident, and a minor victim girl was subjected for sexual assault by the present applicant, and the offence is of a serious nature, in view of that, the application deserves to be rejected.

6. After hearing both sides and on perusal of the investigation papers, it reveals that the victim herself has admitted in the FIR that there was a love affair between her and the one boy, namely Rutik Rajesh Sangle, which was revealed to the present applicant, and the present applicant disclosed to her that he would inform the said fact to her parents, and therefore, she apologized to him and requested him not to disclose it, and thereafter the alleged incident appears to have happened. Considering the statement of the victim and the medical report, admittedly the medical report shows that the last sexual activity was with the victim before four months of her medical examination. Considering all these facts the investigation is already completed, relevant statements are already recovered as far as the aspect of recovery of the mobile phone is concerned, which can be taken care of by

directing the present applicant to produce the same before the Investigating Officer, in view of that the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] In the event of arrest, in connection with Crime No. 412/2024 registered with police station Civil Lines, Akola for the offence punishable under Sections 323, 376, 376(2) (n), 504 and 506 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012, the applicant – *Pankaj s/o Vishwanath Lahole* shall be released on anticipatory bail, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c] The applicant shall attend the concerned police station once in a week on Monday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency.
- d] The applicant shall produce his mobile phone before the investigating officer on 16/12/2024 and the said peirod will be considered as his custody for the purpose of Section 23(2) of the Bhartiya Saksha Adhiniyam.

- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case either physically or through electronic media.
- f] The applicant shall attend the proceedings before the Special Court without seeking any exemptions unless there are exceptional circumstances.
- g] The fees of the appointed counsel be quantified as per Rule.

[URMILA JOSHI-PHALKE, J.]