



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

CRIMINAL APPLICATION (ABA) NO.792 OF 2023

Raju s/o Sahebrao Gawande

Vs.

State of Maharashtra, Through Police Station Yewada, District Amravati
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. K. Sathianathan, Advocate for applicant.

Mr. V. A. Thakare, APP for respondent No.1/State.

Ms. Shubhada K. Phaltankar, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 12/02/2024

1. Apprehending the arrest at the hands of police the present applicant is seeking pre-arrest bail in connection with Crime No.268/2023 registered at Police Station Yewada, Tq. Daryapur District Amravati for the offences punishable under Sections 354, 354-A, 504, 506 of the Indian Penal Code, 1860 and also under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The learned counsel Mr. Sathianathan for the applicant submitted that the accusation against the present applicant is on the basis of the report lodged by the mother of the victim girl, alleging that the present applicant is her neighbor and there was a quarrel between two families and during that quarrel present applicant has outraged the modesty of minor

girl aged about 13 years, she is mentally retarded. Her daughter has disclosed this fact to her by the sign, which she can understand. On the basis of the said report, the Police have registered the crime.

3. He further submitted that the allegations are leveled against the present applicant, merely because, there was a previous quarrel between the two families on account of the boundary of the two houses. He further submitted that the said issue was raised before the Grampanchayat which was resolved by the Grampanchayat. In view of that, the false allegations are made against the present applicants. He further submitted that now, the investigation is completed. As the present applicant has cooperated with the investigating agency by attending the police station, his custodial interrogation is not required and therefore, the interim protection granted to him deserves to be confirmed.

4. Learned APP strongly opposed the application on the ground that the minor mentally retarded girl was subjected for sexual assault by the present applicant, the offence is of serious nature. He further submitted that no dispute was pending before the Grampanchayat. The letter issued by the Grampanchayat clarifies the same. The statement of the victim and other witnesses show the involvement of the present applicant in the alleged offence. In

view of that, the interim protection granted to the present applicant deserves to be cancelled.

5. Learned Counsel for the respondent No.2 endorsed the same contention and submitted that considering the gravity of the offence, the application deserves to be rejected.

6. Having heard the learned counsel for the applicant, learned APP for the State and learned Counsel for the respondent No.2. Perused the investigation papers, from which it reveals that there was a previous dispute between the parties on account boundary of the houses. As per the allegation, the present applicant has outraged the modesty of the small victim girl of 13 years, who is mentally retarded. The statement of the victim also substantiates the same. At the same time, it also reveals that since long there is dispute between the parties. Some photographs are so filed on record by the learned Counsel for the applicant to show that now, the said dispute is resolved and there is a fencing between the two houses. It further appears that the charge-sheet is filed as the investigation is already completed. There is no complaint that the applicant has not cooperated with the investigating agency. In the light that, investigation is already completed and charge-sheet is filed, the physical custody of the present applicant is not required and therefore, the application deserves to be allowed by

confirming the anticipatory bail granted in favour of the present applicant. In view of that, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) In the event of his arrest, in connection with Crime No.268/2023 registered at Police Station Yewada, Tq. Daryapur District Amravati for the offences punishable under Sections 354, 354-A, 504, 506 of the Indian Penal Code, 1860 and also under Section 8, 12 of the Protection of Children from Sexual Offences Act, 2012, the applicant – **Raju Sahebrao Gawande**, be released on anticipatory bail on furnishing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend Police Station once in a month on Sunday between 10.00 a.m. to 1.00 p.m. and the investigating officer shall record his presence.

(iv) The applicant shall not induce, threat or promise to any witnesses who are acquainted with the fact of the present case.

(v) The applicant shall not indulge himself any further disputes and if any incident is reported, the protection granted to the present applicant shall stands cancelled.

7. The fees of the appointed Counsel for the respondent No.2 be quantified as per rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)