



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

CRIMINAL APPLICATION (BA) No.872 OF 2024

(Badhabhushan Vijay Pahurkar Vs. State of Maharashtra, through PSO, PS
Tamgaon, Tq. Sangrampur, Distt. Buldhana 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. G.G. Mishra, Advocate for applicant.
Mr. S.A. Ashirgade, APP for respondent No.1.
Mr. Nikhil D. Dawda, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 19th OCTOBER, 2024.

1. The applicant came to be arrested on 17th August, 2024 in connection with Crime No.221/2024, registered with Police Station Tamgaon, District Buldhana, for the offence punishable under Sections 376, 376(2), 376(2)(j), 376(2)(f), 376(2)(i), 376(2)(n), 376(3), 354, 354-A, 354-D, 452, 504 and 506 of the Indian Penal Code and Sections 4,8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. The applicant approached to this Court for grant of bail. The crime is registered on the basis of report lodged by victim Vaishali on an allegation that she is studying in 11th Standard and the present applicant who is her cousin uncle residing in her neighbourhood. In the year 2020 she was visiting the house of her cousin grand-mother as she was not well for preparing the meal. At the relevant time present applicant attempted to communicate with her and also forcefully shown her obscene videos and when she disclose that she will disclose

the incident to her family members she was threatened. Thereafter also she visited the house of the present applicant as her mother forcefully sent her for preparing the meal. It is further alleged that thereafter she was subjected for the forceful sexual attack by the applicant on multiple occasions. On the basis of the said report Police have registered the crime against the present applicant.

3. Heard learned counsel for the applicant. He submitted that as far as allegations are concerned which are baseless and false allegations due to the enmity between the two families. He further submitted that as far as further incarceration is concerned which is not required, as now investigation is completed and charge-sheet is filed and prays for releasing the applicant on bail.

4. Learned A.P.P. for the respondent No.1 and learned counsel for respondent No.2 strongly objected the application on the ground that statement of the victim is substantiated by the medical evidence as hymen tear in a 7 O'clock position was seen during the genital examination. The mobile phone of the present applicant is also seized and referred for the analysis. The analysis report is yet to be received. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned A.P.P for the respondent No.1/State perused the investigation papers, from which it reveals that the statement of the victim is substantiated by the medical evidence as during the medical examination hymen tear was seen at 7 O'clock position. At this stage, there is no reason to suspect the statement of the victim which is substantiated by the medical evidence. The

mobile phone of the present applicant is also seized referred for the analysis. The report of the analysis is yet to be received. At this stage no case is made out for grant of bail. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is rejected.
 - (ii) The applicant is at liberty to file an application after receipt of analysis report.
 - (iii) Fees of the appointed counsel be quantified as per rules.
6. Application is disposed of.

(Urmila Joshi-Phalke, J.)