



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

CRIMINAL APPLICATION (ABA) NO. 764 OF 2024

Vishnu Prakash Mehsane 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. M.N.Ali, counsel for the applicant.

Mr. N.B. Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 24/10/2024.

1. Apprehending the arrest the hands of police in connection with Crime No. 460/2024 registered with Police Station Malkapur city, District Buldhana for the offence punishable under Sections 74, 78 of Bharatiya Nyaya Sanhita (BNS) and under Sections 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'the POCSO Act'). Subsequently on the basis of the statement of the victim, the offence came to be registered under Sections 64(2)(f), 64(2)(m), 351(1), 351(3) of BNS and Sections 4, 6, 8 and 12 of the POCSO Act.

2. The applicant is apprehending the arrest at the hands of police as a crime is registered on the basis of a report lodged by the victim girl, who is aged about 17 years and 10 months, on an allegation that she got acquaintance with the present applicant and the present applicant was following her, and against her wish he was communicating with her. He also attempted to hold her hand in the month of March. In April-2024, he followed her and expressed his

feelings. On the basis of the same, initially a crime is registered under Sections 74, 78 of the BNS and under Sections 8 and 12 of the POCSO Act. On the basis of the subsequent statement, the crime was registered, as the allegation was that she was subjected for sexual assault by the present applicant.

3. Learned counsel for the applicant submitted that, as far as the allegation regarding sexual assault or sexual harassment is concerned, there was a love affair between the victim of the present applicant. They have exchanged the WhatsApp chats, and the WhatsApp chats placed on record sufficiently show the nature of the relationship between them. He submitted that, due to pressure of parents, this false FIR is lodged by her. As far as custodial interrogation is concerned, which is not required, and therefore, he be protected by granting ad-interim protection.

4. Learned APP strongly opposed the said application and submitted that the victim is a minor girl and her consent is not relevant. Considering the nature of the allegations, the prayer for grant of ad-interim protection deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the various documents filed along with the application, along with photographs. The photographs show that the victim was seen along with the present applicant, and staying with him very happily. There is no disclosure shown

by her when she was in the company of the present applicant. The WhatsApp Chats which are placed on record sufficiently show the nature of the relationship they are having. Primarily, the consent of the victim is not relevant, but considering the WhatsApp Chats, from which it reveals that there was a love affair between the victim and the present applicant, and out of that, there may be a physical relationship between them. As far as the immediate custodial interrogation is concerned, which is not required. In view of that, the applicant has made out a case for grant of ad-interim protection. Accordingly, I proceed to pass the following order:

- a] In the event of arrest, in connection with Crime No. 460/2024 registered with Police Station Malkapur city, District Buldhana for the offence punishable under Sections 74, 78 of **Bharatiya Nyaya Sanhita** (BNS) and under sections 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), the applicant – *Vishnu Prakash Mehsane* shall be released on ad-interim anticipatory bail, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like.
- b] The applicant 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.

- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.
- d] Learned Additional Public Prosecutor waives service of notice on behalf of non-applicant / State and seeks time to file reply.
- e] Issue notice to the non-applicant No.2, returnable on 21/11/2024.

[URMILA JOSHI-PHALKE, J.]