



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 CRIMINAL APPLICATION NO. 1767 OF 2024

PANDHARI PRABHAKAR PAGARE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Sachin L. Baswe Advocate for Applicant.
Mr. A.R. Kale, A.P.P. for Resp. No.1.
...

CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.

DATE : 28th APRIL 2025

ORDER :

1. Heard learned Advocate appearing for the applicant and learned APP for respondent No.1. There is no necessity to issue notice to respondent No.2.

2. Learned Advocate for the applicant has taken us through the charge-sheet in Special Case No.75 of 2023 before the learned Special Judge under the POCSO Act / Additional Sessions Judge, Sangamner, District-Ahmednagar. The said case arises out of Crime No.348 of 2023 registered with Rajur Police Station,

Taluka-Akole, District-Ahmednagar for the offence punishable under Sections 366-A, 212 of the Indian Penal Code and under Sections 8, 12 of the Protection of Children from Sexual Offences Act (for short "the POCSO Act"). Learned Advocate for the applicant submits that as per the prosecution story, the offence that is alleged to have been committed by the applicant is under Section 212 of the Indian Penal Code i.e. harbouring or concealing an accused with knowledge. Only on the basis of statement of three witnesses the said section has been added and the present accused has been arrayed. It is stated by those witnesses that they had seen the present applicant with co-accused i.e. main accused against whom the offence under the POCSO Act and under the Sections of Indian Penal Code has been lodged. On the next day of the said date which has been given in the statement, i.e. 28th October 2023, it is stated that witness Devidas had seen the present applicant with the co-accused on motorcycle and on the next day the applicant was arrested. But the main accused was not with the applicant or in his house. The applicant has produced his attendance at the work place which shows that he was regularly attending his job. Under such circumstance, there is nothing in the charge-sheet

which will even prima facie show the ingredients of Section 212 of the Indian Penal Code.

3. It is to be noted from the statement of witnesses who had allegedly seen the main accused with the present applicant. If the relationship between the accused persons is seen, then the applicant is the brother-in-law of the main accused. The FIR has been lodged on 7th October 2023 and the witnesses have stated that they had seen both the accused on 28th October 2023 and 31st October 2023, respectively. Now question would be, whether the applicant had knowledge about the lodging of the FIR against the main accused or not. But there appears to be the station diary entries, which show that there was an attempt to arrest the main accused by going to his house where he was not found. Therefore, taking into consideration the relationship, at least at this stage, prima facie, it can be said that the applicant had the knowledge about lodging of the FIR against his brother-in-law. Now, it would be for the applicant to show that he was not aware or the co-accused was not with him, which would definitely be the part of the trial. Further, we cannot take note of the attendance sheet that has been produced by the applicant, as it would require evidence to be led by the present applicant. Under

such circumstance, we do not take this to be a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure.

4. The Application stands rejected, at the threshold.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/APR25