



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

CRIMINAL APPLICATION (BA) NO.239 OF 2025

(Pankaj s/o Bhikaji Patre Vs. The State of Maharashtra thr. PSO PS Warora, Tah.
Warora, Dist. Chandrapur 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. Amol Jaltare, Advocate for Applicant.
Mr. V. A. Thakare, APP for Non-Applicant No.1/State.
Mr. Vinay Sharma, Advocate (Appointed) for Non-Applicant No.2.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 26th MARCH, 2025.

1. Heard.
2. The applicant came to be arrested on 17.06.2023 in connection with Crime No.458/2023 registered with Police Station Warora, District Chandrapur for the offence punishable under Sections 376(2)(n), 376(2)(f), 376(2)(k), 376(3) of IPC read with Sections 4, 6 and (5)(J) (2) and 5(L) of the Protection of Children from Sexual Offences Act, 2012.
3. The crime is registered on the basis of report lodged by the victim girl aged about 14 years that the present applicant is her cousin maternal uncle by a relation and she was working with him in a brick-kiln, at the relevant time she subjected her for sexual assault repeatedly which resulted into a pregnancy. On the basis of the said report police have registered the crime against the present applicant.

4. Heard learned counsel for the applicant, who submitted that initially bail application was withdrawn as the DNA report was matched filed along with the charge-sheet and liberty was granted to file an application after receipt of the DNA report. Now, DNA report is received and the applicant is excluded to be a biological father of the baby delivered by the victim girl. He submitted that the entire statements are of the relatives, at this stage considering expert evidence the applicant has made out a case for grant of bail. Moreover, the investigation is already completed no purpose would be served by the present applicant behind the bar.

5. Learned APP strongly opposed for the same and submitted that the statement of the victim is to be treated as higher footing she specifically stated the sexual assault by the present applicant. Merely because the DNA report goes against allegation leveled by the victim is not sufficient to release the applicant on bail. He submitted that if the applicant is released on bail he will tamper the prosecution witnesses. In view of that, the application deserves to be rejected. Learned counsel for the victim also endorsed the same contention.

6. After hearing both the sides and on perusal of the investigation papers. The victim girl was specifically made allegation against the present applicant. At this stage, the nature of the evidence is not to be discussed. But, considering the statement of the victim and the DNA report are contrary to each other and the investigation is

already completed charge-sheet is already filed further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The criminal application is allowed.
- (ii) The applicant – Pankaj s/o Bhikaji Patre, shall be released on bail in connection with Crime No.458/2023 registered with Police Station Warora, District Chandrapur for the offence punishable under Sections 376(2)(n), 376(2)(f), 376(2)(k), 376(3) of IPC read with Sections 4, 6 and (5)(J) (2) and 5(L) of the Protection of Children from Sexual Offences Act, 2012, on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of village Paharni, Tahsil Nagbhid, District Chandrapur till culmination of the trial.
- (iv) The applicant shall not induce, threat or promise to any witnesses who are acquainted with the facts of the present case.
- (v) The applicant shall attend the proceedings before the Special Judge without seeking any exemption unless there are exceptional circumstances.

(vi) The applicant shall furnish his detailed address along with the address proof before the trial court.

7. The fees of the appointed counsel be quantified as per rule.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)