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927 ba 394-2025

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

CRIMINAL APPLICATION (BA) NO. 394 OF 2025

Mr. Laxman @ Mukka S/o Isaru Brahmankar
Vs.

State of Maharashtra, Through Police Station Officer, Police Station Gondia
City, Tahsil and District Gondia

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

Court's or Judge's orders

Mr. P.T. Rokde, Advocate for applicant
Ms T.H. Udeshi, APP for respondent/State.
Mr. A.S. Pande, Advocate (Appointed) for respondent No.2

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/06/2025

The applicant came to be arrested on 09/05/2024 in connection with Crime No.0288/2024 registered with Police Station Gondia City, Gondia, for the offence punishable under Sections 376 (AB), 376 (2)(j) of the Indian Penal Code and under Section 6 of the POCSO (Protection of Children from Sexual Offences) Act.

2. Crime is registered on the basis of report lodged by mother of the victim girl on an allegation that on 08/05/2024, her husband has left the house to attend the work and she also left the house to attend the labour work. At about 6:00 p.m. when she returned home her daughter was found in a weeping condition. On enquiry with her she disclosed that the present applicant has subjected her for the forceful

sexual assault. On the basis of the said report police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant who submitted that the allegation is not substantiated either by the medical evidence or by the forensic analysis. He further submitted that the applicant himself is deaf and dumb person and suffering from disabilities. The medical certificate is also not substantiates the allegations. Now the investigation is already completed. Charge sheet is already filed. Considering the difficulties the applicant is facing in jail atmosphere, he be released on bail

4. Learned APP and learned Counsel for the victim strongly opposed the said application on the ground that considering the statements of the neighbouring witnesses and the statement of the victim the involvement of the present applicant reveals. At this stage, there is nothing on record to show that there is any other reason for the victim to implicate the present applicant in the alleged offence. Considering a very tender aged girl is subjected for the sexual assault, the application deserves to be rejected.

5. On hearing both the sides and on perusal of entire investigation papers admittedly no injuries are found on the person of the victim and the forensic report which are placed on record also

nowhere shows any blood or semen detected on the seized articles. At the same time, there are statements of the independent witnesses who disclose about the circumstance that they have seen present applicant in the company of the victim. Victim has immediately disclosed the said incident to her mother and thereafter immediate report is lodged. At this stage, considering there is nothing on record to show that there is any other reason for the victim to implicate the present applicant. The *prima facie* case is made out hence, application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

- i) Application is rejected.
- ii) Fees of the appointed Counsel be quantified as per the Rules.

(URMILA JOSHI-PHALKE, J.)