



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

CRIMINAL APPLICATION (BA) NO.1033 OF 2024

(Mohsin Ali s/o Harun Ali Vs. 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. Yogesh Nayyar, Advocate for Applicant.
Ms. Sneha S. Dhote, APP for Non-Applicant No.1/State.
Ms. C. S. Bhute, Advocate for Non-Applicant No.2.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 7th APRIL, 2025.

1. Heard.
2. The present applicant came to be arrested on 05.08.2023 in connection with Crime No.626/2023 registered with Police Station Warora, Tahsil Warora, District Chandrapur for the offences punishable under sections 363, 366(A), 370(A), 376, 376(2)(N), 376(3), 376(DA), 392, 201 and 323 of the Indian Penal Code and under Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3, 4, 5 and 6 of Immoral Trafficking and Prevention Act.
3. The crime is registered on the basis of report lodged by the victim girl alleging that she is residing with her parents and is an illiterate and prior to one month she had quarrel with her mother due to which she left the house and was standing in Anandvan square at that time

co-accused Pooja Atram got acquaintance with her and took her along with her and asked her to do the prostitution, thereafter she stayed for two to three days at her house. It is alleged that the present applicant and the other co-accused subjected her for the forceful sexual assault and she was driven in the prostitution work. On the basis of said report police have registered the crime against the present applicant.

4. Heard learned counsel for the applicant who submitted that now investigation is completed, charge-sheet is filed. As far as the allegations are concerned initially the name of the present applicant not mentioned in the FIR. Subsequently during her statement she discloses about the role of the present applicant. Thus, her subsequent statement is made after thought, now considering that initially she has not implicated the present applicant and the next statement is after thought. Therefore, there is no other material to connect the present applicant with the alleged offence investigation is already completed and the charge-sheet is already filed, trial is not yet commenced. In view of that, the applicant be released on bail.

5. The learned APP strongly opposed for the same and submitted that the applicant is having criminal antecedents as in all five offences are registered against him which are not mentioned in the application, secondly there is a specific allegation against the present applicant as to the sexual assault on the minor victim girl and for driving her in the prostitution and third when he was on bail in other

offence he has committed the said offence and for all above these reasons, the application deserves to be rejected.

6. After hearing both the sides and on perusal of the investigation papers it reveals that victim a minor girl left the house as there was some trifle quarrel between her and her parents and by taking disadvantage of the said fact the co-accused taken the victim girl and driven her in a prostitution business. The statement of the victim discloses the involvement of the present applicant in the alleged offence. It further reveals that the present applicant has taken her on his vehicle and thereafter subjected her for the forceful sexual assault. The test identification parade was held wherein she has identified the present applicant. Thus, *prima facie* case is made out against the present applicant. Thus, as far as the merit of the matter is concerned it shows the involvement of the present applicant in offence of subjecting the victim for the forceful sexual assault.

7. The applicant has not disclosed the criminal antecedents in the application. This aspect is recently considered by the Hon'ble Apex Court in the case of ***Munnesh v. State of Uttar Pradesh in Special Leave to Appeal (Cri.) No.1400/2025*** wherein it is observed that the petitioner has suppressed the material facts with regard to his involvement in criminal cases, he is not entitled to the discretionary relief of bail. Even otherwise, the trial has progressed reasonably and hence, no case for releasing the petitioner on bail has been set up. While dealing with this

aspect it is observed by the Hon'ble Apex Court that a growing trend is being noticed of individuals, seeking from this Court the concession of bail or concession of protection from arrest, not disclosing in the special leave petition their involvement in other criminal cases. In such cases where involvement is not disclosed, on a *prima facie* satisfaction that long incarceration without reasonable progress in the trial is invading the right to life of the accused or that the offences for which the FIR has been registered are not too serious, notices are issued and only thereafter, information of criminal antecedents is being provided in the counter affidavits filed by the respective respondents-States, as in the present case. The result is that this Court, being the apex court of the country, is being taken for a ride. This Court has shown leniency in the past but we think it is time that such state of affairs is not allowed to continue further.

8. This ratio laid down by the Hon'ble Apex Court is applicable in the present case also. The object behind disclosing the criminal antecedent is that the court should know as to the criminal antecedents of the accused therein. Thus, herein in the present case it reveals that the applicant has not disclosed its criminal antecedent as he is involved in a Crime bearing No.75/2011 wherein he was convicted and his sentence was suspended and he was released on bail. When he was released on bail he has committed the above offences bearing Crime No.97/2012, 1269/2017, 1369/2018 and 1417/2018. Thus, it is apparent that the applicant has violated the terms and conditions on which he

is released on bail and he has committed the offences when he is on bail in other criminal offences. Thus, considering the *prima facie* material against the present applicant, not disclosed the criminal antecedents and he has committed the offences when he is on bail. The application deserves to be rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)