



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

CRIMINAL APPLICATION (ABA) NO.828 OF 2024

Sau. Seema d/o Roshan Daberao

Vs.

State of Maharashtra, through Police Station Officer, Police Station,
Kalamana, District Nagpur 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. Anil Mardikar, Senior Counsel a/b Mr. B. H. Tekam, Counsel for the
applicant.

Ms. M. A. Barabde, APP for non-applicant No.1/State.

Ms. Anuprita S. Mishrikotkar, appointed Counsel for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/03/2025

1. Apprehending the arrest at the hands of police in connection with Crime No.606/2024 registered with Police Station, Kalamana, District Nagpur for the offences punishable under Sections 137(2), 65(1), 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023, under Section 4 of the Protection of Children from Sexual Offences Act and under Section 66E of the Information Technology Act, the applicant approached this Court for grant of pre-arrest bail.

2. Heard learned Senior Counsel Mr. Mardikar who submitted that the allegation against the present applicant is that the victim got acquaintance with the present applicant. The present applicant and other co-accused administered her some stupefying

substance and the co-accused subjected her for forceful sexual assault and the present applicant has obtained her video and threatened her that she would make the said video viral and thereafter, again co-accused has subjected her for the forceful sexual assault. The crime is registered against the present applicant. He invited my attention towards the various statements of the witnesses as well as the panchanama as to the seizure of the mobile phone and submitted that from the seizure panchanama, it reveals that the obscene video is not found in the mobile phone either of the present applicant or the co-accused, but it was found in the mobile phone of the victim's grandmother. He further submitted that the statement of the owner of the factory wherein the victim and the present applicant were working it reveals that it was the present applicant, who made a complaint in the name i.e. to Mangesh Madhukar Khadgi that the victim is leaving the premises without informing anybody and not working properly. Thus, he submitted that considering the statement of the said Mangesh Madhukar Khadgi it reveals that it was the victim who was not attending the work properly and leaving the premises without informing anybody and as the applicant made a complaint, and therefore, she is implicated in the alleged offence. He submitted that as far as the custodial interrogation is concerned, which is not required. In view of that, she be protected by granting anticipatory bail.

3. Learned APP and learned appointed Counsel for the victim strongly opposed the said application and submitted that the statement of the victim itself is sufficient to show the involvement of the present applicant. Considering the victim is only 14 years old and subjected for sexual assault by the co-accused and the present applicant, *prima facie* case is made out and hence, the application deserves to be rejected.

4. On hearing both sides and on perusal of the investigation papers, there appears to be some substance to the contention of the learned Senior Counsel appearing for the applicant. The panchanama also shows that the obscene video was not found in the mobile phone of the present applicant or the co-accused, but it was found in the mobile phone of the grandmother of the Victim which victim was using. The medical history narrated before the Medical Officer also nowhere discloses the name of the present applicant. The statement of the owner of the factory where the victim was working also discloses that the present applicant has disclosed to him that the victim is leaving the premises of the workplace without informing anybody. Thus, considering the entire investigation papers, as far as the present applicant is concerned, her custodial interrogation is not required as nothing is to be recovered from her. Even the allegations levelled against her is not substantiated by any material at

this stage. Now the investigation is already completed and charge-sheet already filed against the co-accused, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) In the event of arrest, in connection with Crime No.606/2024 registered with Police Station, Kalamana, District Nagpur for the offence punishable under Section 137(2), 65(1), 64(2) (m) of the Bharatiya Nyaya Sanhita, 2023, under Section 4 of the Protection of Children from Sexual Offences Act and under Section 66E of the Information Technology Act, the applicant **Sau. Seema d/o Roshan Daberao** shall be released on anticipatory bail, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week on Monday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(v) The applicant shall not enter into the jurisdiction of Police Station, Kalamana, till culmination of the trial.

5. The fees of the appointed Counsel be quantified as per rules.

(5)

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6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate