



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

CRIMINAL APPEAL NO.716 OF 2024

Rameshkumar s/o Kisan Malode
Aged about 46 years, Occupation – Teacher,
R/o Shree Bhawan Ganesh Mandal Road,
Ward No.10, Malipura, Chikhli,
Tah. Chikhli, District Buldhana

...APPELLANT

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Amdapur,
Tah. Chikhali, District Buldhana
2. XYZ (Victim) Crime No.371/2024
Registered by Police Station Officer,
Police Station Amdapur,
Tah. Chikhali, District Buldhana

...RESPONDENTS

Mr. H.S. Chawhan, Advocate for the appellant.
Mrs. M.A. Barabde, A.P.P. for the State.
Mr. M.P. Kariya, Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : MARCH 24, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By preferring this appeal, the appellant has challenged the order passed by the Additional Sessions Judge, Buldhana in Anticipatory Bail Application No.452/2024 by which the application for anticipatory bail of the appellant is rejected.

3. Learned Counsel for the appellant submitted that the crime is registered on the basis of the report lodged by the victim vide Crime No.371/2024 registered with police station Amdapur, District Buldhana for the offence punishable under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023. He submitted that in the entire FIR there is no single allegation against the present appellant. After eight days of the incident, in the supplementary statement the name of the present appellant is mentioned and that is also a stray sentence that present appellant has also subjected her for the sexual assault. The entire allegations are against the co-accused namely Shubham Mohan Gawai. He submitted that considering the general allegation levelled against the present applicant that is also not at the initial stage but after eight days of the incident and in the nature of the general statement, the bar under Section 18 of the Atrocities Act will not attract. In view of that, the appellant be protected by granting anticipatory bail.

4. Learned APP strongly opposed the appeal and submitted that the minor girl was subjected for the sexual assault by the present appellant and considering the *prima facie* case bar under Section 18 of the Atrocities Act will attract and therefore, the order passed by the Additional Sessions Judge, Buldhana deserves to be maintained.

5. Learned Counsel for respondent No.2 also strongly opposed the application and submitted that the present appellant has subjected the victim for forceful sexual assault. Victim is minor and she was also threatened by the present appellant, and therefore, there was no disclosure at the initial stage. In view of that, the bar under Section 18 of the Atrocities Act will attract, and therefore, the appeal deserves to be dismissed.

6. I have heard learned Counsel for both the sides. Perused the entire investigation papers from which it reveals that initially when the FIR was lodged, at that time, there is no single whisper as to the any act committed by the present appellant. The entire allegations are levelled against the co-accused and it is alleged that it is the co-accused who subjected the victim for the forceful sexual assault which resulted into her pregnancy and the DNA report are yet to be received. After eight days of the said incident, the statement of the victim was recorded wherein first time she has alleged him and that is also one stray sentence

is mentioned that the present appellant has subjected the victim for the forceful sexual assault twice. No explanation is put forth as to the non-disclosure of the name of the present appellant at the initial stage, therefore, there is no substance in the submission of the learned Counsel for the appellant that there is likelihood of the false implication as the present appellant is a Primary Teacher seen her along with the other co-accused and that can be the reason to implicate him, and therefore, the bar under Section 18 of the Atrocities Act will not attract. In view of that, the appeal deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The appeal is allowed.
- (ii) The order dated 06/12/2024 passed Additional Sessions Judge, Buldhana in Anticipatory Bail Application No.452/2024 rejecting the application of the present appellant for grant of anticipatory bail is hereby quashed and set aside.
- (iii) In the event of the arrest, the appellant - Rameshkumar s/o Kisan Malode in connection with Crime No.371/2024 registered with police station Amdapur, District Buldhana for the offence punishable under Sections

4 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023, be released on anticipatory bail on executing P.R. bond of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 AM and 1.00 PM, till filing of the charge-sheet and shall cooperate with the investigating agency.

(v) The appellant shall not induce, threat or promise any witnesses including the victim and shall not communicate with her in any manner either personally or by way of electronic media.

7. The contravention of any of the condition would lead to the cancellation of bail.

8. The appeal stands disposed of.

(URMILA JOSHI-PHALKE, J.)