

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

CRIMINAL APPLICATION (BA) NO. 612 OF 2025

Samir Mohammad Madare Vs State of Maharashtra and another.

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.S. Band, counsel for applicant.

Mrs. Sneha Dhote, APP for non-applicant/State.

Mr. Abhishek S.Kashte, counsel for non-applicant No.2,.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 21/07/2025

1. The applicant came to be arrested on 10/04/2025 in connection with Crime No. 266/2025 registered with Police Station Narkhed, District Nagpur for the offence punishable under Sections 74, 76, 78(1), 351(2), 115(2), 333 of Bhartiya Nyaya Sanhita, 2023, and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').

2. The crime is registered on the basis of a report lodged by victim girl aged about 12 years, on an allegation that on the day of the incident, i.e., on 10/04/2025, when she was alone in the house, the present applicant entered into the house, attempted to disrobe her, and also pressed her mouth. 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 even accepting the allegations as it is, it is to

the extent of an attempt to outrage her modesty. As far as Section 8 of POCSO Act is concerned, the ingredients are not complied with and therefore, the offence under Section 8 of POCSO Act is not made out. He also invited my attention towards the medical certificate and submitted that though she has alleged that her mouth was pressed, no injury was found on her person or on her mouth. Now the investigation is completed, charge-sheet is filed, and further incarceration of the present applicant is not required.

4. Learned APP and learned counsel for the victim strongly opposed the said application and submitted that considering the act of the present applicant, who entered the house of the victim by seeing her alone in the house and attempted to disrobe her, there is every possibility of committing the similar type of the offence, if he released on bail, in view of that, the application deserves to be rejected.

5. On hearing both sides and on perusal of the investigation papers, which shows that the attempt was made by the present applicant to disrobe the victim. However, as far as her presence is concerned, there is no independent statement recorded by the investigating officer. At this stage, it would not be appropriate to comment on the nature of the evidence collected during the investigation. However, considering that the investigation is already completed and charge-sheet is already filed, further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed.

ORDER

- a] Criminal application is allowed.
- b] The applicant – ***Samir Mohammad Madare*** shall be released on bail in connection with Crime No. 266/2025 registered with Police Station Narkhed, District Nagpur for the offence punishable under Sections 74, 76, 78(1), 351(2), 115(2), 333 of Bhartiya Nyaya Sanhita, 2023, and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- c] The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.
- d] The applicant shall not enter into the vicinity of village Pimpla, Tah. Narkhed, District Nagpur, till the culmination of the trial.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

(URMILA JOSHI-PHALKE, J.)