Order Below Exh.1 in

Cri. B.A. No.49/2022
(CNR No. MHNS010001332022)

Anil Madhavrao Kharote Vs. State.

Heard :Learned Adv. Mr. R. J. Kasliwal for the applicant.
Learned A.P.P. Ms. S. S. Sangle for the State.
I. O. present.

1. This is an application under Section 439 of the Code of Criminal Procedure in Crime No.337/2022 registered at Police Station, Nashik Road for the offence punishable under Sections 354, 506 of the Indian Penal Code, 1860 and Section 8, 12 of the Protection of Children From Sexual Offences Act, 2012. It is the case of prosecution in brief that the accused/applicant runs a grocery store. He called three minor girls (two of them aged 10 years and one of them aged 17 years) inside the shop, fondled their breast and also kissed them on their cheeks and lips.

2. Learned Advocate for the applicant has submitted that the applicant is a retired public servant. He was working as a Jailor and is 60 years old. The informant is the wife of a police officer. No purpose will be served by keeping the applicant behind bars. It cannot be ruled out that the FIR is false and is filed with an oblique motive. An accused is presumed to be innocent unless proven to be guilty. It is embarrassing and humiliating for him to have been arrested when he has himself served as a Jailor. It is preposterous to believe the allegations of the prosecution considering the age of the applicant and considering that it is

not possible for the applicant to call girls across the counter.

3. Per contra, Ld. A.P.P. has vehemently opposed the application on the ground that there is *prima-facie* case against the applicant. Investigation is at nascent stage. There is no reason for the complainant to lodge a false FIR. Merely because the applicant has been a public servant/Jailor or is 60 years old does not indicate in any manner that he has not committed the offence. Moreover, as far as provisions of the POCSO Act are concerned, the presumption as to guilt exists against the offender. It is pertinent to note that the applicant has committed the offence against three girls. Applicant resides in the same vicinity as the victims. If he is released on bail, there is every possibility of his tampering with the prosecution witnesses.

4. Perusal of the case diary indicates *prima-facie* case against the applicant. Merely because the informant is the wife of a police officer does not indicate that the FIR is false. The FIR involves allegation against three young girls and normally nobody would make false allegations of such nature involving their own children. Similarly, merely because the applicant is a senior citizen or a retired public servant is in no way an indication that he can not commit such an offence. Similarly, it is also not implausible that such an offence has been committed in a shop. In any case, at this juncture, this Court is not deciding the culpability or otherwise of the applicant but is only deciding the bail application. Investigation is at nascent stage.

Admittedly, applicant is a resident of the same locality as the victims. Therefore, apprehension of the Ld. A.P.P. that if the accused is released on bail, there are chances of his tampering with prosecution witnesses is well-founded. In view of the foregoing discussion, I am inclined to reject the application.

ORDER

Application is hereby rejected.

Order is dictated & pronounced in open court.

MRIDULA BHATIA
Digitally signed by MRIDULA BHATIA
Date: 2022.01.15 11:13:56 +0530

Nashik
14/01/2022

Mridula Bhatia
District Judge-2 and
Addl. Sessions Judge Nashik.