

**Order Below Exh.1 in Cri. B.A. No.73/2022**  
**(CNR No. MHNS010002122022)**

Anil Namdeo Mhasal Vs. State.

**Heard** : Learned Adv. Mr. K. S. Tambe for the applicant.  
Learned A.P.P. Ms. S. S. Sangle for the State.  
Perused the say of the victim.

1. This is an application under Section 439 of the Code of Criminal Procedure in Crime No.3/2022 registered at Sinnar Police Station, for the offence punishable under Sections 376(2) (j), 376(3) of the Indian Penal Code, 1860 and Sections 4, 8 & 12 of the Protection of Children From Sexual Offences Act, 2012. It is the case of prosecution in brief that the accused/applicant is a neighbor of the 15 years, 3 months old victim (who is a student of 10<sup>th</sup> standard). On the date of the incident, when the victim was going to attend to nature's call, the applicant pushed her to the ground, undressed her and committed penetrative sexual assault on her.

2. Learned Advocate for the applicant has submitted that the FIR is false. No purpose will be served by keeping the applicant behind bars. He is the sole bread-winner of his family. There is delay of 2 days in lodging FIR which has not been satisfactorily explained. The FIR is lodged as an after-thought.

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 and charge-sheet

is yet to be filed. There is no reason for the complainant to lodge a false FIR. The victim is physically and mentally challenged which was revealed during investigation. The disability certificate of the victim as well as the medical certificate has been annexed in the case diary. No family would concoct such a case. Applicant resides in the same vicinity as the victim. If he is released on bail, there is every possibility of his tampering with and threatening prosecution witnesses.

4. Perusal of the case diary (including 164 Cr.P.C. statement of the victim) indicates *prima-facie* case against the applicant. Victim is only 15 years old. Investigation is in progress and charge-sheet is yet to be filed. Admittedly, applicant is a resident of the same locality as the victim. 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. Offence is punishable up to life imprisonment wherein a minor girl who is physically and mentally challenged has been sexually violated. It is a well-known fact that in India owing to the social milieu, victims of rape are stigmatised and therefore the reasoning given in the FIR that the FIR was lodged after a delay of two days owing to apprehension of being stigmatised is understandable. No reason has been mentioned in the bail application for the victim's family or the victim to lodge a false complaint of this nature. In view of the foregoing discussion, I am inclined to reject the application.

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Order Exh. 1

**ORDER**

Application is hereby rejected.

Order is dictated & pronounced in open court.

Nashik  
18/02/2022

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