

Order Below Exh.1 in Cri. B.A. No.12/2022
(CNR No. MHNS0100003722022)

Motiram Anil Gaikwad Vs. State.

Heard :Learned Adv. Mr. P. S. Bhalerao for the applicant.
Learned A.P.P. Ms. S. S. Sangle for the State.

1. This is an application under Section 439 of the Code of Criminal Procedure in Crime No.537/2021 registered at Vani Police Station, for the offence punishable under Section 354 & 452 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 is a family friend of the complainant. On the date of the incident, when the 5 year old daughter of the complainant was sleeping in her house, the applicant went to her and lowered down his pants till his knees and leaned on her.
2. Learned Advocate for the applicant has submitted that it cannot be ruled out that the FIR is false and is filed due to a family dispute. It is not believable that such an offence can be committed by a family friend. No purpose will be served by keeping the applicant behind bars. He is the sole bread-winner of his family.
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. There was no family dispute between the applicant and the victim's family and 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 indicates *prima-facie* case against the applicant. Victim is only five years old. Investigation is at nascent stage. Admittedly, applicant is a resident of the same locality as the victim. Therefore, apprehension of the Id. 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.

Nashik
18/01/2022

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