Order Below Exh.1 in

Cri. B.A. No.38/2022
(CNR No. MHNS010001122022)

Shirish Baburao Gujar Vs. State.

Heard :Learned Adv.Mr. A. K. Nimbalkar for the applicant.
Learned A.P.P. Ms. S. S. Sangle for the State.
I. O. present.
Perused the say of the victim.

1. This is an application under Section 439 of the Code of Criminal Procedure in Crime No.9/2021 registered at Police Station, Nashik Road for the offence punishable under Section 354 of the Indian Penal Code, 1860 and Section 8 of the Protection of Children From Sexual Offences Act, 2012. It is the case of prosecution in brief that when the 17.5 years old victim went to the accused to purchase sewing machine oil, he held her hand, stroked her cheek and fondled her breast and told her that he really likes her. When the victim resisted his advances, he threatened her with dire consequences.

2. Learned Advocate for the applicant has submitted that the applicant is 58 years old. It cannot be ruled out that the FIR is false and is filed due to a family dispute. Moreover, the alleged incident took place in the afternoon. It is not believable that such an offence can be committed in broad day-light. No purpose will be served by keeping the applicant behind bars.

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. The victim is an engineering student. Merely because the applicant is 58 years old does not indicate in any manner that he can not commit such an offence. In rural areas, everything is deserted in the afternoons (it being lunch time). 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. Merely because the applicant is 58 years old does not indicate that he can not commit such an offence. Investigation is at nascent stage. 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. 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 11:13:35 +0530

Nashik
14/01/2022

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