

Order Below Exh.1 in Cri. B.A. No.148/2022
(CNR No. MHNS010003592022)

Murlidhar Chintaman Raut Vs. State

Heard :Learned Adv. Mr. R. Y. Patil for the applicant.
Learned A.P.P. Ms. S. S. Sangle for the State.
Perused the say of the complainant and the victim.

1. This is an application under Section 439 of the Code of Criminal Procedure in Crime No.3/2022 registered at Police Station, Abhona, Dist. Nashik for the offence punishable under Sections 376, 363 & 341, r./w. S. 34 of the Indian Penal Code, 1860 (I.P.C.) and Sections 4 & 8 of the Protection of Children From Sexual Offences Act, 2012. It is the case of prosecution in brief that the accused persons kidnapped the minor 14 year-old victim on a motor-cycle and thereafter accused No. 1 (applicant) raped her.

2. Learned Advocate for the applicant has submitted that the FIR was lodged under Section 363 of the I.P.C. against an unknown person. The applicant was subsequently named as an accused. Moreover, the complainant and the victim have filed their say stating their 'no-objection' to granting bail to the applicant. In order to buttress his contentions further, he has relied on the citation in the case of **Sunil Mahadev Patil V/s. The State of Maharashtra LAWS(BOM)-2015-8-295** wherein bail was granted to the accused in a similar case.

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 in progress and charge-sheet is yet to be filed. There is no reason for the complainant to lodge a

false FIR. Although initially the FIR was lodged under Section 363 of the I.P.C. against an unknown person, however, after the victim was traced she has named the accused persons. The names of the accused persons were added on the basis of the information provided by the victim and on the basis of her statement. There was no reason either for the victim or for the police machinery to falsely implicate the accused persons. Moreover, the applicant is the prime accused who has raped the victim. Citation in the case of Sunil (Supra) is not applicable to the facts of the case in as much as unlike the case at hand, investigation was completed in that case wherein the victim had a 'love-affair' with the accused. Applicant resides in the same village 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. Although initially the FIR was lodged under Section 363 of the I.P.C. against an unknown person, however, after the victim was traced she has named the accused persons. The names of the accused persons were added on the basis of the information provided by the victim and on the basis of her statement. There appears to be no reason either for the victim or for the police machinery to falsely implicate the accused persons. Moreover, the applicant is the prime accused who has raped the victim who is merely 14 years old. Citation in the case of Sunil (Supra) is not applicable to the facts of the case in as much as unlike in the case at hand, investigation was

completed in that case. The very fact that the complainant and the victim have filed a say stating their 'no-objection' to the accused being released on bail itself indicates that the prosecution witnesses are being tampered with. Victim is only 14 years old. Investigation is in progress and charge-sheet is yet to be filed. Admittedly, applicant is a resident of the same village 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.

Nashik
28/02/2022

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