



**IN THE COURT OF ADDITIONAL SESSIONS
JUDGE AT PANVEL, DISTRICT- RAIGAD**

SPECIAL CASE No.71/2024

The State of Maharashtra

--- Prosecution

Vs.

Nirmal Chaudhari and Ors.

--- Accused

Corum - Santosh C. Shinde

Date - 17th February 2025

Appearance-

Ld. advocate Smt. Swati Chitnis for accused No.2.

Ld. Spl. P. P Smt. P. P. Wade for the State of Maharashtra.

Order below exh.3

1. This application is filed by accused No.2 **Nirmal Amulya Debnath** for regular bail.
2. Say of State of Maharashtra was called upon. Say is filed at exh.4 and application is strongly objected.
3. Heard Ld. advocate Smt. Swati Chitnis for accused No.2 and Ld. Addl. P. P Smt. P. P. Wade for the State & victim in person.

4. Ld. advocate Smt. Swati Chitnis for accused submitted that case against present accused is of abatement. There is no evidence of abatement against accused. Allegation against present accused are without any base and as accused neglected victim for that reason only case is filed. Role of present accused is not serious. Charge-sheet is filed. Further custody is not required.
5. Smt. Swati Chitnis in support of argument has relied upon judgment of Hon'ble Bombay High Court in **Arun Dagadu Mhaske Vs. State of Maharashtra & Anr. (Bail Appln. No.281/2022 decided on 07/09/2022**, Hon'ble Karnataka High Court in **Paramashivaiah A. J Vs. State of Karnataka on 13th October 2023 (Cri. Appeal No.65/2023)** and Hon'ble Allahabad High Court in **Hariom Vs. State of U.P. & 3 Ors. (Cri. Misc. Bail Appln. No.38993/2023 dt.17/10/2023)**. I have gone through these citations at the time of passing this bail order.
6. Ld. Addl. P. P. has relied upon say as argument. Victim submitted that accused was paying money to her parents for committing sexual act therefore bail should not be granted.
7. Perused charge-sheet.
8. FIR is registered by victim. Accused No.2 is father of victim. It is alleged that accused No.1 used to visit house of victim as he was in illicit relationship with mother of victim. It is alleged that accused No.1 was sexually molesting to victim when she was 14 years. It is alleged that in the year 2022, he committed forcible sexual intercourse with her in presence of

her mother and he was sending obscene messages, nude photos & porn videos on WhatsApp of victim. During investigation mobile phone of victim & accused No.1 & 3 have been seized. Screen shots of WhatsApp chats which have been attached to charge-sheet shows that porn videos have been sent to victim by accused No.1.

9. It is further alleged that thereafter also accused No.1 committed forcible sexual intercourse with victim. As per victim when accused No.1 was coming her house, her parents namely accused No.2 & 3 were staying in the hall. As per victim, accused No.2 who is her father was aware about the same but he did nothing and she had not made complaint about alleged sexual assaults as she had fear that no one will believe her case.
10. Most of the allegations about sexual assault are against accused No.1. Victim has not stated that present accused committed in overt act with her. If role of present accused is considered then he has abetted commission of sexual offence with her own daughter. Punishment provided for abetment under POCSO Act is the same punishment which is provided for the main offence.
11. If nature of allegations against present accused are considered then allegations are serious in nature. Father of a child has kept mum when sexual assault was committed against her own daughter in his own house over substantial period and no complaint was made by him. The act of accused No.2 is very serious & insensitive. No doubt. FIR is

registered after delay but reason given by victim for that delay is considered then it is quite natural that a child will not complaint about the sexual assault when her own parents are instigating and doing nothing for the same. In present scenario, if reason given by victim for nothing registration of FIR is considered then same is reasonable.

12. If relationship of accused No.2 with victim and his inactiveness & insensitiveness towards her own daughter is considered then present offence becomes more serious & heinous. If bail is granted to present accused then it will be a wrong message to society and children who are daring to make complaint about sexual assaults will not come forward to make such complaints.
13. Considering nature & gravity of offence as well as relationship of present accused with victim, I am not inclined to grant bail to present accused. As a result, I pass following order.

ORDER

Application is rejected.

(Application is disposed of accordingly)

Panvel

Date: - 17/02/2025

(S. C. Shinde)

Addl. Sessions Judge
Panvel, Dist.-Raigad