

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (B.A.) No. 153 of 2015

Gajanan Gopalrao Chandurkar vs. State of Maharashtra

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

CORAM : PRASANNA B. VARALE, J

DATE : 28.4.2015

Heard Mr. M.V.Bute, the learned counsel for the
applicant and Mr. P.V.Bhoyar, the learned APP for the State.

The applicant is before this court seeking his
enlargement on bail in connection with Crime No. 157 of 2014
for the offence punishable under Sections 376 (5) (2) (D) (L),
363 and 114 of the Indian Penal Code, registered with the
Police Station, Asegaon. It is the case of the prosecution, as
reflected from the report of one Sandip Gadge, that his sister,
who was under treatment for her mental illness, was moving
around in the village and on 24.9.2014 when the informant /
complainant had been on his agricultural field for carrying

agricultural operation, he was informed by one Kapil and Rahul that when they were at the Bus Stand, one Bhagwan Solatwar informed them that two boys carried his sister towards Nimbhari Road. On carrying out search when the villagers approached Nimbhari Road, they saw a person standing there. On enquiry he disclosed his name as Gajanan (applicant) and further informed that he was waiting for his friends. The villagers were conducting search of sister of Sandip and found two boys with the victim. The two boys were apprehended by the villagers. On enquiry, their names were revealed as Irfan Sheikh and Bablu Pathan. Sandip then made inquiry with his sister. She disclosed that she was subjected to sexual exploitation at the instance of Irfan and Bablu. On completing the procedural formalities of the investigation, charge sheet is filed.

Mr. Bute, the learned counsel for the applicant submitted that the applicant was arrested on 25.9.2014 and since then he is behind the bars. Mr. Bute then invited my attention to the material collected by the Investigating Agency reflected in the charge sheet. The submission of Mr. Bute is that only on the vague statements of the alleged eye witnesses, the applicant is falsely implicated in the crime. Mr.

Bute submits that in the report itself it is stated that on enquiry made to the victim, the victim stated that the other two accused persons ravished her. Mr. Bute, submitted that apart from the vague reference that the applicant was standing on the road and on enquiry he disclosed his name and informed that he was waiting for his friends, he is subjected to the prosecution. Mr. Bute, then submits that as the investigation is completed and concluded in filing the charge sheet, all the necessary materials are collected by the Investigating Officer. On the backdrop of the vague material, the further custodial detention of the applicant would be unjust and uncalled for.

Mr. P.V.Bhoyar, the learned APP vehemently opposes the application. The learned APP submits that there are statements recorded by the Investigating Officer, more particularly the eye witnesses viz. Bhagwan Gotalwar and Munnajshah. The statements of these alleged eye witnesses reveal that they found three unknown persons near the bridge towards Chandrabhaga river and out of these three unknown persons, two by asking the victim to sit on motorcycle, carried her towards Nimbhari Road. Thus, on perusal of the statements, I find considerable merit in the submission of Mr.

Bute. The identity of the applicant itself is not established even in the statements of the alleged eye witnesses. On the contrary, they say that the persons found by them near the bridge were unknown to them. There is nothing on record that any attempt was made by the investigating agency to establish the identity of the applicant by other material. Even in the report and the statement of the informant, it reveals that when the enquiry was made with the victim, she informed that two boys carried her and the informant then reveals the name of the applicant with reference to the statement of Bhagwan. Considering all these aspects, in my opinion, the learned counsel for the applicant has made out a case for enlargement of the applicant on bail.

The application is allowed. The applicant be released on bail on furnishing PR bond of Rs. 20,000/- (rupees twenty thousand only) with one surety in the like amount on the following conditions.

a) The applicant to cooperate with the investigating agency and to attend the attend the Police Station, Asegaon on 2nd and 4th Saturday on every month between 9.00 a.m. to

12 noon till commencement of the trial and as and when called by the investigating agency.

b) The applicant shall not tamper with the prosecution evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.

c) The applicant to submit his residential address and his contact numbers such as phone/ mobile numbers to the investigating agency.

d) In case the applicant is moving out of the area of the Police Station, Asegaon, he shall inform the concerned Police Station about his visit to other place

In case of breach of these conditions, the prosecution agency to take necessary steps in accordance with the provisions of law.

The application is allowed and disposed of. It is needless to state that these observations are made for considering the prayer of the applicant seeking his enlargement on bail and the learned trial Judge may not be influenced by these observations in the process of trial.

JUDGE

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