

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

CRIMINAL APPLICATION (BA) NO.885 OF 2014

**DILIP S/O RAMRAO BHAGAT
V/S
STATE OF MAHARASHTRA, THROUGH P.S.O. P.S. SAONER,
NAGPUR**

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

**Shri R.M. Patwardhan, counsel for the applicant.
Mrs. S.S. Jachak, APP for the State.**

**CORAM : PRASANNA B. VARALE, J.
DATE : MARCH 9, 2015**

Heard.

By the present application, the applicant is before this Court seeking his enlargement on bail in connection with Crime No.107 of 2014, registered with Police Station Saoner, District Nagpur, for the offences punishable under Sections 376 (e), (k), (n), 506, 112, 120-B, and 34 of the Indian Penal Code and Section 3(2)(e) of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.

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The victim who lodged report with the Saoner Police Station, District Nagpur, on 27.5.2015, states that she had studied upto 10th Std.. She was working in a private hospital receiving salary of Rs.3,000/- per month. Her family was consisting of her mother, two brothers. As her mother was in dire need of finances, her mother had opened that topic to one Shabnam aunty requesting her to provide some information about the person who could provide financial assistance. Shabnam along with the mother of the victim then had proceeded to a lady by name Jaya. Jaya had informed that in the State of Madhya Pradesh at a place called as Khawasa, there was a Pandit, who could rain the money and for that purposes he required a girl of twenty-year-age. The family as was in dire need of money, was ready to approach that place called as Khawasa in the State of Madhya Pradesh. Sometime in the month of January, 2014, the victim along with her mother, Sayra Begam, Jyoti, brother Jyoti, Shabnam, husband of Shabnam, and Jaya, associate of Jaya had been to Khawasa.

The Pandit, who was 70 year of his age,

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had applied Turmeric Powder over the victim and performed the Puja. Then, the Pandit informed that as the Puja was performed, there would be raining of money. It was informed to the family that a second visit was required.

Again, the family had been to Khawasa. They reached at late hours approximately at 10:00 p.m.. In the midnight, in a hut which was situated in agricultural field, the group had proceeded for Puja. The Pandit had asked the victim to remove her clothes. The Pandit had also removed his clothes and started Puja and the same went on for an hour. The Pandit replied that as the "JIN" had failed to attend, they would have to visit again.

After fortnight, Jaya had given phone call to the mother of the victim informing that there was lady Doctor who was in a position to be needful i.e. raining of money for the family. The family then had been to a place called as Saoner, District Nagpur. The vehicle was stopped at a nearby Temple. A person, called Khobragade, had attended that group and asked them to reach at a quarter of one Anil in the evening at 05:00

p.m..

At this point, the applicant enters on the scene.

The applicant had reached the place. He asked the victim to come along with him in a separate room for performing the Puja. Then the applicant had handed over some old coins. He had applied over her Turmeric Powder and by igniting camphor he had started performing the Puja. After half an hour, he assured that her wishes would be fulfilled and had asked them to visit again.

After three-four days again, the Puja activity was performed. The applicant then again had asked the victim to visit the next day. On the next day, the victim informed the applicant that she was in menstruation cycle. The applicant had provided his mobile number and asked her to visit after fifteen days. After fifteen days, the applicant had taken the victim in a room and asked her to remove her clothes. When the victim resisted, he had told that if she denied to act as per his wish, there would be danger to her life as well as her family. Then he stated that if she denied, the "JIN" would be failed to attend resulting in failure

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of the work. Then the applicant stated, “तुझे झुठा करना पड़ेगा”. As such, the victim came under the pressure. Since left with no option, she had removed her clothes. The applicant had exploited her sexually. The victim immediately had disclosed that fact to Jyoti. Jyoti had assured her that by that way would receive money and further assured her not to disclose that fact to anyone.

She was again called the next day. Thereafter, the applicant had given a phone call to the victim and informed that there could not be performance of Puja for a period of nearly a month and had asked her to come as and when he called.

After some days, the victim again had received phone call from the applicant. On receiving call, the victim had been to the applicant with Jyoti and was subjected to exploitation. Then the victim carried pregnancy. She had informed her mother what had been with her. The mother of the victim in turn had informed that fact to Jyoti, Khobragade, Anil, and the applicant. Anil insisted upon termination of the pregnancy and Jyoti gave some pills to her resulting in abortion of the victim. Thereafter, the

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report was lodged to Saoner Police Station.

Learned counsel for the applicant vehemently submits that it does not stand to reason that when the applicant was exploited once she will again attend the applicant and would subject herself for exploitation for another occasion. Learned counsel submits that the threats were extended allegedly by the applicant only on the first occasion whereas the report clearly reveals that on the alleged second and third incidents there was no threat extended by the applicant. Learned counsel for the applicant submits that the applicant is arrested on 22.6.2014 and since then he is behind the bars. He submits that allegation on the face of them are far fetched. Thus, learned counsel prays for enlargement of the applicant on bail.

Learned APP opposes the application and places the reliance on the material collected by the investigating agency as well as reply filed by the State.

The present application arises out of a story of the victim alleging sexual exploitation and in addition to provisions of additional new act are attracted. Before

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proceeding to other merits, it will not be out of place to mention that there is a rise of large section of the society falling pray to the ponzy schemes on one hand and there are the incidents wherein section of the society largely illiterate, having inadequate means, finances and resources available to them facing the fight of living day-to-day life, is falling pray to assurance of easy money by magical remedies. It is, thus, natural that a common man who has not having adequate sources of income is immediately fascinated and attracted to any assurance of easy money. It is also not very uncommon that though these assurances on face of them are illogical, irrational, absurd and totally imaginative the people fall pray to these assurances only with an intention to have some easy money. On this backdrop, if one peruses the object of the Act, it reads of act to bring social awakening and awareness in the society and to create a healthy and safe social environment with a view to protect the common people in the society against the evil and sinister practices thriving on ignorance, and to combat and eradicate human sacrifice and other inhuman, evil,

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sinister and aghori practices propagated in the name of so called supernatural or magical powers or evil spirits commonly known as black magic by conmen with sinister motive of exploiting the common people in the society and thereby destroying the very social fiber of the society; and for matters connected therewith or incidental thereto.

Coming back to the facts of the present matter, this matter also reflects story of a girl who completed her studies upto 10th Std. and then proceeded to support her family by doing job in a private hospital. It also reflects the mother who was in dire need of money fall an easy pray to an assurance stating that a person is in a position to rain money. Though it needs no logical and mathematical precision to say that such an act is mere an impossibility still the lady who was in dire need of money fall pray and approaches that person. The first part of the report deals with same person at place called as Khawasa in the state of Madhya Pradesh and may not be relevant to the applicant. The role of the applicant is in the second part of the report. In that

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second part, the applicant emerges as a lead player. The report says that the applicant performed the Puja. The victim was handed over some old coins. The Turmeric Powder was applied to her. Such Puja was performed for two-three occasions. The applicant took the victim to a separate room of the premises and asked the victim to remove her clothes. When the victim refused to do the same, the applicant gave threat of life to her. The applicant told her that her denial would lead dire consequences of life and her family members. He then stated that her such denial would result in failure of "JIN" reaching and in the result the Puja would be a futile exercise. The victim was then subjected to sexual exploitation. Learned counsel though vehemently submits that the victim at that stage could have resisted and could have denied the advances of the applicant, on the backdrop of the scenario where the victim girl of twenty-years of age whose family is in the dire need of finances, the applicant who on more than one occasions, in the name of Puja exercised some activities and by giving a threat of dire

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consequences of life to her and to her family and then impressing upon the victim that if she denies it will be futile exercise, certainly this scenario could have made a girl depressed and under tremendous mental pressure and not in a position to resist.

Considering the backdrop of these incidents, by no stretch of imagination it can be said that the victim was in a position to act with free will, whereas the applicant claiming that he possesses magical power, performing Puja and assuring family of rain fall of money was in dominating position. Considering all these aspects the act reflected in the material *prima facie* shows involvement of the applicant which is serious in nature. Merely because the applicant is behind the bars for a period of six months, cannot be a ground to enlarge the applicant on bail. The material collected by the agency also shows that the medical evidence is not complete and certain reports are awaited so as to give a final opinion in respect of the allegation that the victim was carrying pregnancy and the pregnancy was terminated.

Considering all these aspects, in my

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opinion, this is not a fit case to enlarge the applicant on bail. The application is rejected.

Needless to say that these observations are on the backdrop of the prayer of the applicant seeking his enlargement on bail and the learned Sessions Judge to consider the case on its own merits and on the material presented before it.

The application is disposed of as such.

JUDGE

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