

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

CRIMINAL APPLICATION (BA) NO.871 OF 2017

Ankush s/o Ganesh Bokde

..vs..

The State of Maharashtra, through Police Station Officer, Police Station
Pachpaoli, District Nagpur

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

Court's or Judge's Order

Shri A.S. Band, Counsel for the applicant.

Shri R.S. Nayak, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 22, 2017.

1. Heard learned counsel Shri A.S. Band for the applicant and learned Additional Public Prosecutor Shri R.S. Nayak for the State.

2. This is an application for regular bail.

3. The applicant is arrested in connection with Crime No.223 of 2017 registered with Police Station Panchpaoli, Nagpur for the offences punishable under Sections 376(2)(i)(j) (n), 323, 342, and 506 of the Indian Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.

4. The victim herself has filed the report against the present applicant. It is dated 29.7.2017.

5. Prior to lodging of the first information report, *in question*, on 7.2.2017 the victim was required to approach to Police Station Panchpaoli against the present applicant since the applicant has committed penetrative sexual assault on the victim. The age of the girl is below 15 years. The investigating officer registered an offence under Section 376(2)(i)(n) of the Indian Penal Code and under Sections 5(1) and 6 of the Protection of Children from Sexual Offences Act, 2012. The applicant was arrested in Crime No.45 of 2017.

6. The application of the applicant before learned Judge of the Court below for releasing him on bail in connection with Crime No.45 of 2017 was rejected. That gave cause to the applicant to approach to this Court. Accordingly, he filed an application bearing Criminal Application (BA) No.618 of 2017. This Court (Coram : Z.A. Haq, J.) on 11.7.2017 granted the bail in favour of the applicant in Crime No.45 of 2017.

7. As per the first information report, *in question*, i.e. First Information Report No.223 of 2017, the applicant after his release on bail, visited the house of the victim on 19.7.2017. That time, the present applicant had some talk with the mother of the victim. Thereafter, on 21.7.2017 at 8:00 p.m., the applicant disclosed that he was required to spend Rs.1.00 lac for obtaining bail in the earlier crime and, therefore, if the amount is not paid, the victim must marry with him. Thereafter, he forcefully

took the victim with him and committed sexual assault repeatedly.

8. From the first information report, it is clear that the girl below age of 15 years was required to bear forceful sexual assault on her committed by the applicant and after gathering courage, she came to Police Station Panchpaoli and lodged the report.

9. The Police Station Officer of Police Station Panchpaoli registered crime vide Crime No.223 of 2017. The applicant is arrested in that crime and is behind the bars. The investigation is in progress in Crime No.223 of 2017 in which the applicant is claiming the bail.

10. According to learned counsel Shri A.S. Band for the applicant, First Information Report No.223 of 2017 is nothing but a concoction and on false statement of the victim the crime is registered. He submits that merely because in the earlier crime this Court has granted bail to him, out of vengeance the subsequent crime is registered against him.

11. Learned Additional Public Prosecutor Shri R.S. Nayak for the State strongly opposes the application. In addition to the fact that the investigation is in progress, learned Additional Public Prosecutor Shri R.S. Nayak invites my attention to the crime chart which is attached along with the

reply filed on behalf of the State. He submits that the present applicant is not only having inclination to commit the offence but is having tendency to repeat such type of offences, if he is released on bail.

12. The chart clearly shows that in addition to Crime Nos.45 of 2017 and 223 of 2017, other crimes are also registered against the present applicant.

13. The allegations against the applicant are serious in nature. After the release on bail in earlier crime by this Court, the applicant has repeated the same offence. If the applicant is released on bail and is allowed to roam freely, in my view, tender age girls will feel insecure.

14. While considering the application for bail, seriousness in respect of accusation has to be given due weightage. Further, the conduct of the applicant is also required to be seen. Many a time, the Court grants bail since the investigation is completed and the charge-sheet is filed. However, looking to the attitude of the present applicant, that as soon as he was released on bail, he has a courage to commit another offence of similar crime, the said has to be viewed seriously by this Court or the other Courts before whom the applications for bail will be presented, even after filing of the charge-sheet.

15. The applicant is having tainted past. Not only that, as soon as the bail was granted by this Court, he has misused the liberty granted to him by this Court and has indulged in similar type of offences. Therefore, in my view, the present applicant is not at all entitled to be released on bail, till the Trial is completed.

16. Hence, the criminal application is rejected.

JUDGE

!! BRW !!