

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

Criminal Application (BA) No. 270 of 2018

Akash v.State of Maharashtra

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

Court's or Judge's orders

Shri S. V. Sirpurkar, Advocate for applicant
Shri P. S. Tembhare, APP for respondent-State

Coram : S. B. Shukre, J

Date : 25.4.2018

Heard. Perused the reply of prosecution and the charge-sheet.

The allegations made against this applicant and the others are of very serious nature. The deceased was 15 years old when she died and the allegation is that she was taken to one hillock near her house, which was a secluded place and was gang raped by the three accused persons including this applicant. The further allegation is that after committing such heinous crime, the deceased victim was done to death by three accused persons by smashing her head and other body parts by stones.

With these allegations, one would expect a deeper as well as wider investigation. Unfortunately, although deeper investigation has been made, the width of the investigation is not found to be as much as one would have expected in such a case. The reason is, not only there are no eye witnesses, but there is no witness who could be found by the investigating officer as saying that he had at least seen this applicant lastly in the company of the victim. There is one statement of a witness who revealed that he had seen this applicant around the time of incident not with the deceased victim, but with co-accused. One of the co-accused Shashya @ Shashikant was a

juvenile offender. He is now dead after he committed suicide while in the custody of the Superintendent of Remand Home. Deceased Shashikant had made a confessional statement to the Superintendent of Remand Home wherein he conceded to have committed rape of the deceased victim along with this applicant and other co-accused. It was recorded by the investigating officer in presence of Superintendent of Remand Home and also father of Shashikant. So, it would be hit by Section 25 of the Indian Evidence Act. This statement makes allegations of commission of murder by this applicant and co-accused Pratap while maker of the statement of the charge of murder is not available as he is no more living. The applicant is in jail since last one year. The investigation is over long back. With the kind of evidence collected by the police in this case, I am of the view that no purpose would be now served by keeping the applicant behind the bars any more.

Application is allowed and it is directed that the applicant be released on bail in Crime No. 226/2017 registered with Police Station, Ghuggus for the offences punishable under Sections 302, 376, 376D, 376 (2) 9i), 120B and 201 of the Indian Penal Code and Sections 4,5 (g), 6, 8 and 17 of the Protection of Children from Sexual Offences Act upon his furnishing PR Bond of Rs. 50,000/- together with one solvent surety in the like sum, on the following conditions:

- (1) Applicant shall attend Police Station concerned on every Sunday between 05.00 pm and 07.00 pm till conclusion of the trial.
- (2) Applicant shall regularly attend the trial Court on all dates of hearing as may be fixed in the case.
- (3) Applicant shall cooperate with the trial Court in

expeditious disposal of the trial.

(4) Applicant shall not tamper with prosecution evidence in any manner.

Disposed of.

JUDGE

joshi