

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

CRIMINAL APPLICATION (ABA) NO. 657 OF 2019

Kailash Suresh Zalte .Vs. State of Maharashtra, PSO, P.S. Buldhana Gramin,
Dist. Buldhana.

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

Mr. M.N. Ali, Advocate for applicant.

Mr. S.S. Doifode, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : OCTOBER 11, 2019

Heard Mr. Ali, learned counsel for the applicant and Mr. Doifode, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the State. Learned Additional Public Prosecutor also made available to me entire investigation papers.

The applicant is apprehending his arrest in connection with Crime No.312/2019 registered with Police Station, Buldhana (Rural), Dist. Buldhana for an offence punishable under Sections 354, 452, 504, 506 and 323 of the Indian Penal Code.

The first information report is dated 09.09.2019 in respect of the incident that occurred on 12:00 O'clock in the noon on 31.08.2019. As per first information report, with bad intention applicant entered inside the house of the complainant and tried to outrage her modesty. When she resisted, two to three slaps were given on her left ear by the

applicant. She shouted. Thereafter her husband Ramdhan came and when he asked the applicant he was abused by the applicant. That time one Vishnu Gade and Sharad Gade were present there.

Obviously there is delay of about nine days in lodging the report. The delay itself cannot be fatal for the prosecution case if it is properly explained. In the report it is stated by the first informant that due to assault on her ear she was having injury and therefore, she was admitted in Government Hospital at Buldhana and after she was discharged from the hospital, she is lodging the report.

The investigation papers contains the medical examination certificate of victim which shows that the injury was simple type of injury however, opinion of ENT Surgeon was advised. The said certificate does not disclose that she was referred for her admission in the hospital. The entire investigation papers do not show any investigation by the investigating officer to point out that at any point of time the victim was indoor patient for about eight days. On the contrary the case diary would show that the investigating officer has obtained the medical papers however there is no document whatsoever in nature to show that the victim was indoor patient of Government Hospital, Buldhana and therefore, she was not able to lodge first information report.

Be that as it may, the first information report itself shows the presence of husband of the victim Ramdhan and one Sharad Gade and Vishnu Gade. The statement of Vishnu and Sharad were recorded on 25.09.2019 without there

being any explanation as to why their statements were recorded belatedly. Even Ramdhan has also not given any explanation as to why he did not report the matter immediately.

The applicant was protected by this Court on 27.09.2019 by directing him to attend police station from 01.10.2019 to 05.10.2019 and shall be with the investigating officer from 11:00 a.m. to 05:00 p.m. Mr. Doifode, the learned Additional Public Prosecutor fairly states on instructions received from the investigating officer that applicant did attend the police station and extended cooperation.

Looking to the fact that there is a delay in lodging the first information report and which has remained unexplained at least at this stage properly, in my view, the applicant can be released on anticipatory bail. Consequently, I pass following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.312/2019 registered with Police Station, Buldhana (Rural), Dist. Buldhana for an offence punishable under Sections 354, 452, 504, 506 and 323 of the Indian Penal Code, applicant -Kailash Suresh Zalte, be released on bail on he executing PR. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.
- (iii) Applicant is directed to attend Police Station, Buldhana (Rural) twice in a week i.e. on every Monday and

Tuesday and shall be with the investigating officer from 03:00 p.m. to 05:00 p.m. till filing of the charge-sheet.

(iv) After filing of the charge-sheet applicant shall attend Police Station, Buldhana (Rural) once in a month i.e. on second Monday of each month and shall be with the investigating officer from 03:00 p.m. to 05:00 p.m. till culmination of the trial.

(v) Applicant shall not give any type of threat to the victim.

The application is disposed of.

JUDGE

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