

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

CRIMINAL APPLICATION (BA) NO. 105/2020

Mohd. Shahruk S/o Mohd. Ashfak Vs. State of Maharashtra through PS.
Kholapurigate, District Amravati.

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

Court's or Judge's orders.

Shri P.V. Navlani, counsel for applicant.
Shri N.B. Jawade, Addl. P.P. for non-applicant

CORAM : ROHIT B. DEO, J.
DATED : 20.02.2020

The applicant is charge-sheeted for offence punishable under Section 376(1) of the Indian Penal Code read with Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The applicant is in custody since 18.11.2019. The investigation is complete and charge-sheet is filed.

3. The substratum of the report lodged by the informant Dr. Sohail on 16.10.2019 is that the applicant/accused sexually assaulted his minor daughter on 26.04.2019, when the minor daughter had gone to Amravati with her mother.

4. According to the informant, it was only on 08.10.2019 that the daughter disclosed the incident. Even

assuming that the disclosure was on 08.10.2019, there is no explanation why the informant did not lodge the report with promptitude. It was only on 15.10.2019 that according to the informant, he approached Buldhana Police Station and then he approached jurisdictional police station.

5. The mother of the minor is the estranged wife of the informant. She filed an affidavit in the learned Sessions Court in the bail proceedings which reads thus:

“1] That, my marriage was solemnized with one Soheli Ahemad S/o Abdul Rauf on 16/02/2003 and out of this wedlock we have three issues, I) Nushayba Samar, aged 14 years, ii) Noor Aksha, aged 10 years, iii) Mohd. Shomel, aged 6 years.

2] That, in the last year I came to attend one marriage function of my relative and came in contact with Mohd. Shahruk S/o Mohd. Ashfak and established friendly relations with him and thereafter we started contacting each other through mobile and also used to meet at Amravati and this fact came into knowledge of my husband and thereafter my husband started harassing and assaulting me and due to this I left his company and filed petition of Domestic Violence against him at Hon'ble Court of Darwaha and due to this my husband started harassing me in various manner and even sent forged photo of his suicide through whats app and due to this I have lodged N.C. Report at P.S. Darwaha on 26/07/2019 and same was registered as N.C.R. 606/2019.

3] That, the F.I.R. against Mohd. Shahruk at P.S. Kholapuri Gate, Amravati is nothing but an vague attempt to separate Mohd. Shahruk from me.

Nothing was happened as alleged in the F.I.R. because I was accompanied with my daughters and the F.I.R. No.339/2019 registered at P.S. Kholapuri Gate is act of revenge of my husband.

4] That, I am aware of consequences of filing of false affidavit and the contents of this affidavit are true and correct as per my knowledge.”

6. I am not inclined to make any decisive observation on the material collected and which is reflected in the charge-sheet. However, I am satisfied that the applicant has made out a case for grant of bail.

7. The application is allowed.

8. The applicant be released on bail, on furnishing P.R. Bond of Rs.16,000/- and surety of like amount.

9. Bail be furnished in the Special Court.

10. The applicant shall not contact the witnesses and any attempt to do so may entail in withdrawal of the protection order.

JUDGE