

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

Criminal Application (BA) No. 240 of 2020
Akash Prakash Khandare Vs. State Through Police Station MIDC, Akola

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

Court's or Judge's orders

Mr. J.B. Gandhi, Advocate for the applicant.
Mrs. M.H. Deshmukh, APP for the respondent- State

CORAM : MANISH PITALE, J.

DATED : MAY 26, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant herein stood arrested on 03/05/2019 in connection with FIR dated 02/05/2019, registered against one Manoj Raut and unknown persons for offence under Section 376(d) of the Indian Penal Code.

3. The learned counsel for the applicant has invited attention of this Court to FIR to point out that the applicant was not even named in FIR. It appears that the complainant had given a statement on 04/05/2019, giving the name of the applicant and some other accused persons for the first time. The incident is said to have occurred when the main accused person i.e. one Manoj Raut being upset with the complainant for having illicit relations with his brother Sachin, sexually assaulted her, allegedly along

with applicant and other accused persons.

4. The learned counsel appearing for the applicant has also invited attention of this Court to the medical examination report of the complainant dated 02/05/2019, wherein it is specifically recorded that no evidence was found of use of force over private part of the victim. On this basis, it is submitted on behalf of the applicant that a case for grant of bail is made out.

5. On the other hand, the learned APP has opposed grant of bail inviting attention of this Court to observations made by the Sessions Court while rejecting the application for bail to the effect that there appear to be blunt trauma over chest, abdomen and head of the complainant and that she was found to be in an unconscious state about one hour after occurrence of the alleged incident.

6. This Court has considered the chargesheet and the material placed on record. It is clear that the name of the applicant did not find mention in the FIR in the first place. The name of the applicant cropped up for the first time on 04/05/2019 i.e. three days after occurrence of the incident on 01/05/2019. The contents of the medical examination report of the complainant, at this stage become relevant and they do indicate that the submission made on behalf of the applicant deserves consideration.

7. Yet the possibility of the applicant trying to influence the complainant and other witnesses cannot be ruled out and,

therefore, appropriate condition needs to be imposed even if the applicant deserves to be enlarged on bail.

8. In view of above, the application is allowed in the following terms :

(i) The applicant shall be released on bail in connection with Crime No. 85/2019, dated 02/05/2019, registered at Police Station M.I.D.C., Akola on furnishing PR bond of Rs. 50,000/- (Fifty Thousand) and surety in the like amount.

(ii) The applicant shall not enter jurisdiction of Police Station M.I.D.C., Akola during pendency of the trial except for passing through the said jurisdiction to attend dates before the Trial Court.

(iii) The applicant shall report to Police Station Murtizapur Dist. Akola on second and fourth Monday of each month during pendency of the trial.

(iv) The applicant shall give details of his place of residence and contact number to the Trial Court within two weeks from release.

(v) The applicant shall not in any manner tamper with the evidence or influence the witnesses.

9. Application is disposed of.

10. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

MP Deshpande