

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

LD-VC-CRIMINAL APPLICATION [BA] NO. 464/2020

Salim Khan Israil Khan

-VERSUS-

State of Maharashtra, through P.S.O. Police Station Anjangaon Surji, District Amravati.

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

Court's or Judge's Orders

Shri D.S. Khushalani, Advocate for the Applicant.
Shri A.R. Chutke, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : AUGUST 24, 2020.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. The applicant is arrested in accusation for an offence punishable under Section 376 of the Indian Penal Code in Crime No.3/2020 registered at Anjangaon Police Station. The applicant claimed bail on the ground of false implication and inconsistency in the evidence. Moreover, it is submitted that investigation is complete and in current pandemic situation, there is no possibility of commencement of trial in near future.

3. The State resisted bail by filing reply/affidavit. The

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contents of First Information Report have been reiterated in the reply. Learned Additional Public Prosecutor submitted that the applicant was identified by victim in Test Identification Parade. There is sufficient material against the applicant and therefore bail is prayed to be registered.

4. The victim is grown up lady of 40 years of age. She stated that on 01.01.2020 around 5.00 p.m. while she was proceeding from the side of village school one unknown person intercepted her. The said person forcibly lifted victim, took her into nearby field, undressed himself and had sexual intercourse against her will. The victim stated that when the accused ran away she came on the road, raised alarm on which some villagers gathered. During the course of investigation, the police recorded statement of some villagers. They stated that when the victim discloses about the occurrence, they chased and caught the accused in the way.

5. They asked as to why he has teased the village woman on which he claimed pardon and ran away. The learned counsel for the applicant submitted that there is every possibility of false implication as the witnesses never caught hold the accused though there was allegations of rape. It reveals that the villagers have only asked to the accused as to why he has teased the victim. As per the prosecution case, though victim is grown up lady, the alleged act was committed in the field, meaning thereof on rough surface. In

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such background, total absence of any bodily injury is a matter for consideration. The statements of witnesses prima facie discloses that on the very day they came to know the identity of applicant but, the First Information Report is against an unknown person. Having regard to the nature of accusation, age of victim and as the charge-sheet has been filed, there is no purpose in keeping applicant behind bar in current pandemic situation.

6. Application is allowed.

7. The applicant Salim Khan Israil Khan is released on bail on his furnishing P.R. Bond of Rs.25000/- with one or two sureties in the like amount.

8. Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

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

JUDGE

R.S. Sahare