

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

LD-VC-BA NO. 179 OF 2020

Shaik Azam @ Sonu shaikh Sabir

vs.

The State of Maharashtra through PSO Khamgaon, Tq. & Dist. Buldhana

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

Court's or Judge's orders

Shri. S. Jahagirdar, counsel for applicant.

Shri. V. A. Thakare APP for non-applicant State.

CORAM : MANISH PITALE J.

DATED : 12/06/2020

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

2. The applicant herein is seeking bail in connection with an F.I.R. dated 08/03/2020 whereby offences were registered under Sections 376, 109, 323, 504, 341 of the I.P.C. and Section 3(1)(za) of SC and ST (Prevention of Atrocities) Act. In the F.I.R. name of two persons i.e. Balya Patil and sister of Balya Patil were mentioned and it was also stated that two unknown persons had joined them in committing the aforesaid offences.

3. The learned counsel appearing for the applicant at the outset submitted that the applicant was

not named in the F.I.R. It was further submitted that all the three co-accused persons were already released on bail. It was additionally submitted that a perusal of the material on record would show that the medical examination of the victim did not show any external injury on the body or the private parts, thereby demonstrating at least prima facie that no ground for allegation of rape against the applicant was made out.

4. The learned APP for the non-applicant State opposed the present application on the ground that the statement in the F.I.R. clearly indicated the role attributable to the applicant and that statement of one of the witnesses did indicate that it was the applicant who was in the vehicle in which the victim was allegedly transported and thereafter the aforesaid offences had been committed. On a specific query put to the learned APP to show material indicating that the applicant was identified by the victim, there was no such material brought to the notice of this Court.

5. The aforesaid material on record, particularly grant of bail to all the three co-accused persons and absence of name of the applicant in the F.I.R., as also absence of injuries on the body of the victim, does indicate that the applicant has been able to make out a case for grant of bail in his favour.

6. In view of the above, the present application is allowed in following terms :-

(i) The applicant shall be released on bail in connection with Crime No.128/2020, dated 08/03/2020, registered at Police Station Khamgaon City, District Buldhana on furnishing PR bond of Rs.25000/- (Rupees Twenty Five Thousand only) and surety in the like amount.

(ii) The applicant shall report to Police Station at Khamgaon City on the 1st and 4th Monday of each month during pendency of the trial.

(iii) The applicant shall co-operate with the investigation and also in the proceedings before the Trial Court. He shall attend each and every date of the trial court proceeding.

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

7. Needless to say the violation of any of the aforesaid conditions will make the applicant liable for cancellation of bail. It also goes without saying that the observations made by this Court in the present order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed with the trial on its own merit.

8. Application is disposed of.

9. The 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

KOLHE/PA.