

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1243 OF 2021

Shankar Suresh Nagre

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S.S. Rathi, Advocate for the applicant.

Mr. S.W. Munde, APP for respondent/State.

Mr. K.G. Gaikwad, Advocate (appointed) for respondent No. 2.

CORAM : M.G. SEWLIKAR, J.

DATE : 27th October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Prosecution case in short is that the victim was watching Television in her house. At that time, applicant, aged 21 years, entered the house and violated the modesty of the victim by saying that he liked her very much and held her hand and dragged her towards him and was trying to kiss her. The victim/informant shouted. Hearing her shouts, her mother-in-law came there.

Applicant pushed her mother-in-law and she fell down. Applicant thereafter ran away. On these allegations First Information Report came to be lodged on the basis of which offence under Sections 354, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 8 and 12 of Protection of Children from Sexual Offences Act came to be registered against the applicant.

3. Heard Shri Rathi, learned counsel for the applicant, Shri Munde, learned APP for the State and Shri Gaikwad, learned counsel appointed on behalf of respondent No. 2.

4. Learned counsel Shri Rathi submits that the statements of witnesses show that the mother-in-law of the victim and mother of the applicant were having verbal exchange. Thereafter the mother of the applicant slapped the mother-in-law of the victim. He submits that thereafter, the alleged incident had taken place. He submits that the chronology of events shows that the incident is unlikely to happen as the mother of the applicant and the mother-in-law of the victim were not on good terms.

5. Learned APP Shri Munde and learned counsel Shri

Gaikwad submit that the offence is serious in nature. Therefore, the applicant may not be released.

6. Applicant is admittedly 21 years of age. It appears that applicant's mother and victim's mother-in-law were fighting and thereafter this First Information Report came to be lodged. Applicant has no criminal antecedents. Offence under Section 354 of the Indian Penal Code is punishable with imprisonment for five years and offence under Section 8 of the POCSO Act is punishable with imprisonment not less than three years but which may extend to five years and offence under Section 12 of the POCSO Act is punishable with imprisonment for five years. While considering application for bail, quantum of punishment is one of the relevant considerations.

7. In the case of Sanjay Chandra vs. CBI reported in AIR 2012 SC 830, the Honourable Apex Court observed as under :-

“It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail,

both the seriousness of the charge and the severity of the punishment should be taken into consideration.”

8. Applicant is behind bars for more than three months. Trial is not likely to commence in near future in view of pandemic situation created by Covid-19. Having considered this, I am inclined to release the applicant on bail. He is not likely to influence the witnesses and will be available for trial. Learned APP and learned counsel Shri Gaikwad submit that applicant is of the same village. Therefore, stringent conditions may be imposed. In this view of the matter, following order is passed :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.20,000/- (Rs. Twenty Thousand) with one solvent surety in the like amount, in connection with Crime No. 0201/2021 registered with Kalamnuri Police Station, Dist. Hingoli for the offence punishable under Sections 354, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 8 and 12 of Protection of Children from Sexual Offences Act, on condition that he shall not enter village Khed, Tq. & Dist. Hingoli till conclusion

of the trial and shall not keep any contact with the victim till conclusion of the trial.

iii) Fees of the appointed counsel is quantified at Rs. 5,000/-.

iv) Application stands disposed of.

v) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb