

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

CRIMINAL APPLICATION (BA) NO.241 OF 2021

(Santosh Sudam Jadhav Vs. State of Maharashtra thr. and another)

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

Court's or Judge's orders.

Mr. S.M. Lodha, Advocate for Applicant.
Mr. K.R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 21st JUNE, 2021.

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

2. The applicant – accused is facing trial under Sections 376(2)(j), 376(D), 376(3), 376(DA) of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The allegation is that the applicant – accused gang rape the 14 years old victim.

3. The applicant approached this Court in Criminal Application (BA) 596/2020 seeking bail. Bail was refused by an elaborate speaking order dated 28.09.2020.

4. Undeterred, a second application seeking bail is preferred, and the justification given for preferring successive application is that thirteen months have elapsed since the arrest.

5. While an accused is entitled to move successive bail application, the very *sine qua non* for the justifiability of successive bail application is some change in circumstances. The change must not be cosmetic. Change in circumstances as would warrant a successive bail application is essentially a change which would compel the Court to have a second look at the entitlement of the accused to bail. No attempt is made in the application to point out any change in circumstances as would warrant a successive bail application. Even on merit, there is absolutely no case made out for grant of bail. The allegations are grave and the victim of the alleged gang rape was 14 years. There is more than ample evidence on record to connect the applicant with the crime.

6. This application is an abuse of the process of law, and is dismissed with costs of Rs.5000/-.

7. The Registry shall ensure that copy of this order is placed before the trial court.

8. In the event the accused is not deposited with the High Court Legal Aid Services Sub-Committee, Nagpur within the next 15 days, the Collector, Yavatmal shall ensure that the cost is recovered as arrears of land revenue.

JUDGE