

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

CRIMINAL APPLICATION (BA) NO.314 OF 2021

Jivan s/o Tanuji Salame
..vs..
State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri S.G. Karmarkar, Advocate for Applicant.
Ms. T.H. Udeshi, A.P.P. for Non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 11/06/2021

Hearing was conducted through Video
Conferencing.

2. By this application, the applicant is seeking regular bail in Crime No.170 of 2020 registered at Aroli Police Station, District Nagpur for the offence punishable under Sections 306, 376(2)(f)(n) of the Indian Penal code and Section 4 read with Section 6 of the Protection of Children from Sexual Offence Act, 2012 (POCSO Act).

3. The Applicant claims bail on the ground of innocence, false implication, inadequacy of evidence and completion of investigation. Learned A.P.P. strongly resisted bail by submitting affidavit-in-reply and stating about the seriousness of the allegations leveled against the applicant.

4. At the instance of report dated 27.10.2020

lodged by the father of the victim aged 18 years old girl, the crime was registered. The informant stated that, his daughter (victim) was studying in the school. The applicant who is a teacher, had misused his position under the pretext of teaching dance, had sexually exploited her. The applicant/accused has also promised to the victim for marriage and on his refusal, the victim girl committed suicide by way of consuming insecticide.

5. The facts which emerges are quit distinct. Admittedly, after the death of victim girl, the post mortem was not conducted as the victim was found COVID-19 positive. The record indicates that there is no medical evidence nor there is evidence from chemical analyst. The samples were not collected nor there is scientific evidence from any quarter. So far as, the allegations about sexual exploitation are concerned, the prosecution case is resting on the statement of father and friend of the victim to whom the victim allegedly disclosed about her relations. Unfortunately, the victim girl was no more for medical examination nor her evidence is available. In order to establish the offence of abatement, it requires positive material that the applicant/accused intentionally instigated the victim to commit suicide. The evidence collected by the prosecution, *prima facie* lacks on the point of cause of death and the case is based on the statement of the persons who heard the things allegedly from the victim.

6. Having regard to these circumstances, and as the investigation is complete and trial will take it's own time for disposal, the applicant can be released on bail by

putting certain stringent conditions, hence the following order :

- (a) The Criminal Application is allowed.
- (b) The Applicant/accused Jivan s/o Tanuji Salame is released on bail in connection with the Crime No.170 of 2020 registered with Aroli Police Station, District Nagpur for the offences punishable under Sections 306, 376 (2)(f)(n) of the Indian Penal code and Section 4 read with Section 6 of the Protection of Children from Sexual Offence Act, 2012 (POCSO Act), on his executing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) The Applicant 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 prosecution evidence, in any manner.
- (d) The Applicant/accused shall not enter in the territorial limits of Taluka Mauda, till the conclusion of trial.

JUDGE

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