

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

CRIMINAL APPLICATION (BA) 339 OF 2021

(Bandu s/o.Sanjay Lakde..vs.. State,t hr PSO, PS Dugipur, Dist. Gondia)

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

Court's or Judge's orders.

Mr. A.K. Sarode, counsel for applicant.
Ms. T.H. Udeshi, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.
DATE:12.07.2021.

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

Heard.

2. The applicant is seeking bail in connection with Crime 263/2019, registered with Police Station, Dugipur, Dist. Gondia, for offences punishable under sections 376(d), 307 read with section 34 of the Indian Penal Code and under sections 4 and 6 of the Protection of Children from Sexual Offences Act.

3. The prosecution case is that on 3.11.2019, there was a drama organized in the village, near the house of the child victim.

4. The child victim left home with her identity card since the students were permitted to watch the drama free of cost. By 9.30 p.m., the child victim was escorted to her residence and parents by one Mr. Kailash, who conveyed that the child victim was forcibly taken by some miscreants near the lake and sexually ravished.

5. The prosecution case is that while the co-accused sexually ravished the child victim, the applicant Mr. Bandu and another co-accused kept watch. It is further the case of the prosecution that after the gang rape, an attempt was made to kill the child victim.

6. While the allegations are extremely grave, the child victim has not identified the applicant, who is arraigned as accused 5. In response to a query, the learned APP Ms. T.H. Udeshi fairly states that there does not appear to be any technical or scientific evidence which would prima facie establish the presence of the applicant at the scene of occurrence.

7. The learned Sessions Judge, who rejected the bail observes that the applicant is identified by a witness. In response to a Court query, the learned APP Ms. T.H. Udeshi invites my attention to the statement of witness Mr. Pralhad Meshram who identified the applicant in the test identification parade. This statement does nothing to further case of the prosecution. All that Mr. Pralhad Meshram has said is that the applicant is a driver and was on duty on the day of the incident. Witness Mr. Pralhad Meshram identifying the applicant cannot by any stretch of imagination be an incriminating circumstance suggesting the involvement in heinous crime. All that the statement and identification would suggest is that the applicant was present at the site where the drama was being played. It is not the case of the prosecution that the applicant has adverse antecedents. In this view of the matter, and without in any manner making any observation on the merits of the prosecution case, I am satisfied that a case for grant of bail is made out.

8. The applicant be released on bail in connection

with Crime 263/2019, registered with Police Station, Dugipur, Dist. Gondia, for offences punishable under sections 376(d), 307 read with section 34 of the Indian Penal Code and under sections 4 and 6 of the Protection of Children from Sexual Offences Act, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one solvent surety of the like amount.

9. The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence.

10. The applicant shall not leave the country without the permission of the trial Court.

Judge

Belkhede