

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

Criminal Application (BA) No. 576 of 2021

(Anil Janardhan Avsarmol ..vs.. State of Maharashtra through P.S.O., P.S. Janefal, Dist. Buldana)

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for the applicant
Mrs. K. R. Deshpande, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 12-07-2021

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

2. The accusation which the applicant is facing is that in order to spite his estranged wife who refused to succumb to the applicant's demand that she resume cohabitation, on 3-10-2020, the applicant forcibly took away the 3½ years old child born from the wedlock and on 4-10-2020 at 2.00 p.m., telephonically told his wife that he would kill the child and then commit suicide.

The case of the prosecution is that after sometime, the applicant came to the police station along with the child. Both were having bleeding injuries.

While during the course of investigation, the wound of the applicant is *prima facie* determined to be self inflicted, according to the prosecution, it is the applicant who inflicted stab wound on the throat of the child.

Fortunately, the child survived the alleged attack and was discharged from the hospital.

3. While the learned Additional Public Prosecutor Mrs. Kalyani Deshpande is opposing the application seeking bail strongly, in my considered view, no purpose will be served by the continued incarceration of the applicant.

4. Taking the allegations at face value, there is indeed some material to *prima facie* implicate the applicant. However, the applicant is not a hardened criminal as such. At worst, he appears to be a maladjusted person who attempted to hurt his estranged wife by harming the child. It would be appropriate that rather than languishing in judicial custody, the applicant is given an opportunity of seeking counselling.

5. Mr. Sirpurkar very fairly states that the applicant is ready to give an undertaking that he shall not enter the territorial limits of Mehkar Municipal Council till the conclusion of the trial. This submission is in response to the apprehension expressed by the learned Additional Public Prosecutor Mrs. Deshpande that the witnesses may be threatened and as a fact the relatives of the applicant have already issued threats, which complaint is treated as non-cognizable. Be that as it may, in the absence of preliminary enquiry into the truth or otherwise of the complaint lodged, I am not inclined to deny bail on that ground. If there is any investigation into the complaint and if its credibility is *prima facie* established, it shall always be open for the prosecution to take appropriate steps.

6. The application is allowed.

7. The applicant be released on bail on furnishing PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount on following conditions.

(a) As undertaken, the applicant shall not enter the territorial limits of Municipal Council, Mehkar till the conclusion of the trial, unless specifically permitted to do so by the jurisdictional Court for just and exceptional reasons.

(b) The applicant shall not contact his estranged wife or the son or any witness till the conclusion of the trial.

(c) The applicant shall not leave the country without the permission of the jurisdictional Court.

8. The application is disposed of in the aforestated terms.

JUDGE

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