

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

Criminal Application (BA) No. 695 of 2021

[Shambhunath S/o Sukhraj Pal ..vs.. State of Maharashtra through P.S.O., P.S. Khaparkheda,
Nagpur Rural, Dist. Nagpur]

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

Court's or Judge's orders

Mr. A. D. Dangore, Advocate for the applicant
Mr. N. R. Rode, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 18-08-2021

Victim “P” lodged report dated 25-6-2021 with Khaparkheda Police Station alleging that accused Anilkumar Shrivastav, a Facebook friend of her mother and whom her mother married, visited her place in January, 2021 and subjected her to sexual intercourse on multiple occasions during the stay of week.

2. On the basis of report, Crime 280/2021 is registered under Sections 376(2)(n), 323 and 506 of the Indian Penal Code and Sections 5(l), 6 and 17 of the Protection of Children from Sexual Offences Act. Anilkumar Shrivastav, mother of the victim and the applicant are arraigned as accused.

3. According to the report, the mother of the victim visited Delhi along with the younger brother of the victim to meet Anilkumar Shrivastav. However, the next day, Anilkumar Shrivastav dropped in at 12.00 p.m. or thereabout when the victim and her sister "M" were at home and told them that he would be staying for a week. The victim telephonically called her mother who advised her to do as told by Anilkumar Shrivastav. It is during this stay that according to the victim, she was sexually ravished. Insofar as the applicant is concerned, the report alleges that although the victim disclosed the sexual misconduct of Anilkumar Shrivastav to the applicant, he told her to keep quite and not to disclose the incident to any person.

4. Report dated 25-6-2021, which is lodged in connection with certain incidents which occurred in January, 2021, attributes only a limited role to the applicant that when the victim complained of sexual molestation by Anilkumar Shrivastav, she was asked to keep quite and not to disclose the incident. However, the

statement recorded under 164 of the Code of Criminal Procedure, 1973 (Code) and which is recorded a week after the lodging of the report, levels additional and different allegations, illustratively, the victim alleges that the applicant brandished “silver gun” and threatened her and her younger brother. She also alleges that she was assaulted. The statement of the younger sister which is recorded under Section 164 of the Code goes a step ahead. Since the investigation is ongoing, it would not be appropriate to make a detailed reference to her statement. All that need be said is that what the younger sister alleges, is not even the version of the victim.

5. The applicant is aged 70 years. He is not shown to be a flight risk. He has no criminal antecedent. The applicant is not likely to subvert the trial, if released on bail.

6. Considering the limited role attributed to the applicant in the report and the other relevant factors, a case for grant of bail is made out. The application is allowed subject to the following conditions.

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

(b) The applicant shall not make any attempt to contact the witnesses, particularly, the victim and the other minor witness. Breach of this condition may *ipso facto* entail cancellation of bail.

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

(d) The applicant shall attend each date of hearing scrupulously.

7. The prosecution is at liberty to apply for any additional condition, as may be necessary in order to protect the interest of the victim and the minor witness.

JUDGE