

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

CRIMINAL APPLICATION (BA) 808 OF 2021

(Navalsingh @ Bhurya s/o. Durgasingh Solanke..vs.. State, thr PSO, PS Jalgaon Jamod, Diust.
Buldana)

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

Court's or Judge's orders.

Mr. G.G. Mishra, counsel for applicant.
Mr. N.S. Rao, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.

DATE: 06.09.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 157/2021, registered with Police Station Jalgaon (Jamod), District Buldana, for offences punishable under sections 376(1), 354-D, 363, 366, 452, 506 read with section 34 of the Indian Penal Code and sections 4,6,12 and 17 of Protection of Children From Sexual Offences Act, 2012.

3. The crime is registered on the basis of report lodged by the mother of the victim.

4. The substratum of the report is that the victim, then aged 16 years and 3 months is kidnapped/ abducted by the applicant and the co-accused. It is alleged in the report that the victim went missing in the night intervening 19.3.2021 and 20.3.2021 after she left the house to attend nature's call.

5. The prosecution case is that the victim was recovered from the custody of the applicant at 2.30 p.m. on 24.3.2021 and in the statement recorded on 25.3.2021, the victim alleges that the applicant forcibly established sexual relationship with her on 19.3.2021 and then he and his friends forced her to accompany them first to Khamgaon and then to Raipur via Nagpur. She then alleges that from Raipur, they went to Bhopal and then proceeded to village Kati District Tikamgarh (Madhya Pradesh) and were at the residence of the aunt of the applicant, when the police arrived and took them in custody.

6. It would not be appropriate to deal with the

material on record microscopically. However, since reasons will have to be indicated briefly, in my prima facie view, the allegations levelled by the victim appear to be an afterthought and the material and the circumstances on record prima facie suggest that the victim and the applicant were in relationship.

7. In so far as kidnapping is concerned, it is true that the victim is a minor. However, the learned counsel Mr. G.G. Mishra relies on, and with some justification, on the observations of the Hon'ble Supreme Court in *S. Varadraján vs. State of Madras, AIR 1965 SCC 942*. Again, it would not be necessary to make a definite observation except to state that a contentious submission is made.

8. The medical evidence does not positively indicate that it is after the alleged kidnapping that the sexual intercourse took place.

9. Be that as it may, considering the factual

matrix, and particularly, the fact that the material indicates that the applicant and the victim eloped, and the medical evidence is not conclusive as to the timeline of the sexual relationship, I am inclined to grant bail.

10. This Application is allowed subject to the following conditions:

(i) The applicant be released on bail in connection with Crime 157/2021, registered with Police Station Jalgaon (Jamod), District Buldana, for offences punishable under sections 376(1), 354-D, 363, 366, 452, 506 read with section 34 of the Indian Penal Code and sections 4,6,12 and 17 of 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;

(ii) The applicant shall not enter the

territorial limits of Tahsil Jalgaon (Jamod) till the victim is examined in the trial, save and except, to attend the hearing;

(iii) While on bail, the applicant shall not attempt to contact any witness. Breach of condition of bail, may ipso facto entail in cancellation of bail, if an appropriate motion is moved by the prosecution or any interested person;

(iv) The applicant shall not, directly or indirectly, make any attempt to influence the witnesses or otherwise tamper with the evidence;

(v) The applicant shall not leave the country without the permission of the trial Court.

Judge