

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

CRIMINAL APPLICATION (BA) NO.858 OF 2021

(Islam Kha Daulat Kha Khan Vs. The State of Maharashtra thr. PSO PS Washim (City),
Tah. & Dist. Washim)

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

Court's or Judge's orders.

Mr. S. U. Nemade, Advocate for Applicant.
Mr. N. R. Rode, APP for Non-Applicant/State.
Mrs. P. D. Rane, Appointed Advocate for victim.

CORAM: ROHIT B. DEO, J.

DATE: 20th SEPTEMBER, 2021.

The applicant, whose name allegedly surfaced during the course of investigation, is implicated in Crime 285/2021 registered with Police Station Washim (City), District Washim for offences punishable under sections 366-A, 372, 373, 376(2)(i)(j) and (n), 354, 354-A, 343, 323, 504, 506 read with section 34 of the Indian Penal Code and sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and sections 9 and 10 of Prohibition of Child Marriage Act, 2006.

2. In brief, the prosecution case is that close relatives of the minor victim, who was then aged 12 years, sold her to a person based in Rajasthan who along with his brother sexually exploited the victim.

3. The incriminating material against the applicant is projected as a reference in the statements of two

witnesses to a person belonging to the Muslim religion.

4. Apart from the fact that there is no specific role attributed to the Muslim person, as a fact, there is no attempt made to conduct a test identification parade and presumably the only material which the prosecution is relying on to implicate the applicant is the disclosure statement of the co-accused, which is not admissible.

5. A case for grant of bail is made out.

6. The application is allowed subject to the following conditions:

- (i) The applicant shall execute the personal bond of Rs.16,000/- with one solvent surety of the like amount.
- (ii) The applicant shall, within forty-eight hours of release, furnish to the I.O. his current address and phone numbers and shall update the I.O. of any change.
- (iii) The applicant shall not indulge in any criminal activity while on bail.
- (iv) The applicant shall not make any attempt to influence the witnesses, directly or indirectly

(v) The applicant shall not leave the country without permission of the jurisdictional court.

7. The fees of the appointed counsel be quantified and paid in accordance with the rules.

JUDGE

NSN