

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

CRIMINAL APPLICATION (BA) NO.921 OF 2021

(Ashok s/o Keshavdeo Agrawal and another Vs. State of Maharashtra thr. PSO PS
Murtizapur (Rural), Tah. Murtizapur, Dist. Akola)

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

Court's or Judge's orders.

Mr. A. S. Londhe, Advocate for Applicant.
Mrs. K. R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 15th SEPTEMBER, 2021.

The applicants are seeking bail in connection with Crime 321/2021 registered with Police Station Murtizapur (Rural), Tah. Murtizapur, Dist. Akola for offences punishable under sections 376, 376 (2)(k), 354, 354-A, 506 read with section 34 of the Indian Penal Code.

2. The complainant, who shall be hereinafter referred to as Mrs. 'K' is married to the son of applicant 1, and who is the brother of applicant 2.

3. Mrs. 'K' lodged report dated 25.06.2021 alleging that on 10.03.2021 her father-in-law – applicant 1 herein subjected her to forcible sexual intercourse. She also alleged that her brother-in-law – applicant 2 herein used to behave inappropriately with her. Broadly, Mrs. 'K' alleged that she was married to Mr. Lotkar who expired in 2018 and her son

from the said marriage is aged 25 years. She states that she married the son of applicant 1 on 14.07.2020, she was treated well in the initial one month of the marital life and thereafter her father-in-law and brother-in-law started behaving in inappropriate manner. She disclosed such behaviour to her husband, who ignored her grievance. She then states that after she was subjected to forcible sexual intercourse on 10.03.2021 she left the maternal home on 12.03.2021 and started residing at her parental home at Maheri Kharda (Gawandi), District Yavatmal. She then alleges that on 23.06.2021 she received a telephonic call from her father-in-law who threatened her that should she not cohabit with his son, divorce proceedings shall be initiated.

4. I have scrutinized the material in the charge-sheet, and having done so, I am satisfied that a case for grant of bail is not made out.

5. The relationship between the applicant and her husband is clearly estranged. The statement of Mrs. 'K' is recorded under section 164 of the Criminal Procedure Code (Code) and there is material variance between her version in the 164 statement and the complaint lodged, which is treated as first information report. According to Mrs. 'K' she was raped by her father-in-law on 10.03.2021. *Prima facie*, the version is not confidence inspiring. In the report Mrs. 'K' states that she could not tolerate the ill-treatment and

left the matrimonial home on 12.03.2021. However, the report is lodged more than three months after the alleged incident. As noted *supra*, there is material variance and embellishment in 164 statement in which Mrs. 'K' states that on 12.03.2021 her husband escorted her to her parental home since her husband himself was disturbed at the treatment meted out to her. In my considered view, the possibility that the allegations emanate from matrimonial dispute, cannot be excluded. This of course is a *prima facie* observation.

6. In any event, the investigation is complete and the charge-sheet is filed and further incarceration would only be a pre-trial punishment.

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

- (i) The applicants shall execute the personal bond of Rs.16,000/- each with two solvent sureties of like amount.
- (ii) The applicants shall not indulge in any criminal activity while on bail.
- (iii) The applicants shall not make any attempt to influence the witnesses, directly or indirectly.

- (iv) The applicants shall not leave the country without the permission of the jurisdictional Court.

JUDGE

NSN