

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

CRIMINAL APPLICATION (BA) NO.923 OF 2021

(Mukesh s/o Nilkanth Kale Vs. The State of Maharashtra thr. PSO PS MIDC, Nagpur)

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

Court's or Judge's orders.

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

CORAM: ROHIT B. DEO, J.

DATE: 15th SEPTEMBER, 2021.

The applicant is seeking bail in connection with Crime 569/2021 registered with Police Station MIDC, Nagpur for offences punishable under sections 376, 511, 354, 367 and 506 read with section 34 of the Indian Penal Code.

2. The accusation which the applicant and co-accused Dhepe and Rajkumar is facing is that two women were induced to accompany the applicant and Dhepe in car to the house of the co-accused Rajkumar. One of the two women is the complainant Ms. 'D' whose report discloses a sordid attempt to sexually exploit a vulnerable working woman.

3. Since the investigation is ongoing, I am not inclined to make any positive observation on certain aspects. The substratum of the accusation is that, the accused attempted to force the complainant to drink

alcohol, she resisted the attempt with great difficulty, and later one of the accused attempted to rape her, she again resisted and the other two accused threatened her and tried to forcibly remove her blouse. The complainant named two co-accused as Dhepe and Rajkumar.

4. The learned counsel for the applicant Mr. Chandok submits that his client is not named in the report. Obviously, since the woman did not know the identity of the applicant, he is not named. However, there is more than ample material in the case diary to connect the applicant with the incident and it is precisely to enable the prosecution to conduct a test identification parade that the entitlement to bail will, at least for the present, have to take a back seat.

5. In view of the material available in the case diary, and the fact that the investigation is ongoing and the charge-sheet is yet to be filed, no case for exercise of discretion is made out.

6. The learned counsel for the applicant relies on the following judgments:

[i] *Sanjay Chandra v. Central Bureau of Investigation (2012) 1 SCC 40.*

[ii] *Shashikant Goma Patil and another v. The State of Maharashtra (Criminal Bail Application 7/2013 (Bom)).*

[iii] *Shamil Saqib Nachan v. The State of Maharashtra (Criminal Bail Application 512/2013 (Bom)).*

[iv] *Mahipati Bapu Bandgar v. State of Maharashtra 2001 SCC OnLine Bom 875.*

[v] *Aadil Ansari v. The State of Rajasthan (Special Leave to Appeal (Cri) 9385/2019).*

[vi] *Deepak Aggarwal v. Keshav Kaushik and others (2013) 5 SCC 277.*

7. None of the decisions cited is of any assistance to the applicant. In *Sanjay Chandra vs. Central Bureau of Investigation*, the offence entailed maximum imprisonment of seven years, on conviction. The investigation was complete and the accused were in detention since quite some time. Decisions at serial 2 to 5 are bail orders which are rendered in the facts of the case. The decision at serial 6 is of no relevance since the issue was illegibility of Government Law Officers for appointment as District Judge.

8. The application is dismissed.

JUDGE