

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

Criminal Application (BA) No. 1097 of 2021

(Shivlal s/o Sudhakar Thakare ..vs.. The State of Maharashtra through P.S. Dharni, Dist. Amravati and
anr.)

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

Court's or Judge's orders

Ms. Sadhika Joglekar, Advocate for the applicant
Mrs. M. K. Pathan, APP for the State/non-applicant 1
Mrs. Mayuri Kulkarni Dharmadhikari, Advocate for the victim (appointed)

CORAM : ROHIT B. DEO, J.

DATED : 10-12-2021

Heard.

2. The applicant is in custody since 3-4-2021 in connection with Crime 0235/2021 registered at Dharni Police Station for offences punishable under Sections 376, 342 and 506 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

3. The narrative of the victim is that she had gone to the grocery shop in the evening of 31-3-2021 and on the way back, the applicant dragged her to his residence, confined her there and sexually assaulted her.

4. The material on record shows that the witnesses including the father of the victim claim to have rescued

her at 6.00 p.m. on 1-4-2021 from the house of the applicant and report is lodged on 2-4-2021.

5. I am consciously refraining from making any positive observation on the narrative. However, since I am inclined to grant bail, brief reasons will have to be indicated.

6. The medical papers, which are on record, do not make any reference to any injury either to the genitalia or on any other part of the person of the victim. While the absence of injury may not *per se* be decisive, the absence is a relevant consideration at this stage.

7. The age of the victim will have to be decided in the trial since the issue appears to be contentious. The birth certificate is not on record and reliance is placed on school certificate and the birth certificate pertaining to the elder sister. This may assume some significance in the context of the submission that, if at all the applicant and the victim were together, the relationship is obviously consensual.

8. The learned counsel for the victim hastens to add that the primary submission is that there was no physical relationship, much less, sexual assault.

9. The applicant has no criminal antecedent. He is vegetable vendor. The learned counsel for the applicant has submitted that he would reside outside the territorial jurisdiction of Village Dharmmahu, Tahsil Dharni, District Amravati till the material witnesses are examined in the trial. This should allay the apprehension expressed by learned counsel Mrs. Mayuri Kulkarni Dharmadhikari appointed to represent the victim that the victim may be influenced or pressurized.

10. The application is allowed subject to the following conditions.

(i) The applicant be released on bail on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with solvent surety of the like amount.

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

(iii) The applicant shall not enter the territorial limits of Village Dharmmahu, Tahsil Dharni, District Amravati till the material witnesses are examined

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

11. The fees of learned counsel Mrs. Mayuri Kulkarni Dharmadhikari appointed for the victim be quantified and paid as per the rules.

JUDGE

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