

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

CRIMINAL APPLICATION (BA) 1203 OF 2021

(Avinash s/o. Sanjay Mahakal..vs.. State, thr PSO, PS Sakharkherda, Dist. Buldhana)

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

Court's or Judge's orders.

Mr. N.B. Kalwaghe, counsel for applicant.
Mrs. K.R. Deshpande, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.
DATE: 01.12.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 165/2021, registered with Police Station Sakharkherda, District Buldhana, for offences punishable under sections 376, 452, 504 and 506 of Indian Penal Code.

3. The prosecutrix is a married woman, who resides alongwith her husband and two sons. She alleges that on 20.5.2021, her husband and son were sleeping in the house and the prosecutrix was sitting on the platform at the rear side since she was not able to sleep due to ill health. At 1.30 a.m., the applicant allegedly accosted her, dragged her by the hand inside the house, fell her to the ground and assaulted her and then raped

her. According to the prosecution, it was when the applicant was subjecting her to sexual penetrative assault that she is shouted, her husband and son woke up, rescued her from the clutches of the applicant.

4. I do not consider it appropriate to make any observation on the credibility of the report nor do I consider it necessary to minutely examine the material on record.

5. However, I note that considering the spot panchanama drawn, the fact that the residential house is a modest dwelling with three small room, the allegations are contentious. It is not the case of the prosecution that the applicant is a flight risk or that he has criminal antecedents.

6. I do not find it appropriate to continue the incarceration.

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

- (i) The applicant be released on bail in connection with Crime 165/2021, registered with Police Station

Sakharkherda, District Buldhana, for offences punishable under sections 376, 452, 504 and 506 of Indian Penal Code, on executing PR bond of Rs. 16,000/- (Rupees Sixteen Thousand) with one 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.

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

Judge

Belkhede