

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

CRIMINAL APPLICATION (BA) NO.65 OF 2022

Pawan Gajanan Gangawane

Versus

State of Maharashtra, through P.S.O., P.S. Khamgaon (Rural), Dist. Buldhana and
another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.D. Bhate, Advocate for the applicant.

Ms Shamsi Haider, A.P.P. for the non-applicant No.1/State.

Ms Divya Joshi, Advocate for the non-applicant No.2/Victim.

CORAM : ANIL S. KILOR, J.

DATED : 15/06/2022

1. The applicant is seeking bail in Crime No.25 of 2021, dated 28.01.2021, registered with Police Station Khamgaon (Rural), District: Buldhana, for the offences punishable under Sections 376(3) of the Indian Penal Code and Sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act").

2. Shri Bhate, learned counsel for the applicant submits that the place of incident stated in the First Information Report (FIR) and in the statements, will show that there is drastic change in place of incident, which creates doubt about the commission of offence.

3. He further submits that the mother of the victim has given affidavit before the trial Court that her daughter and she do not have any objection, if the applicant is released on bail.

4. Shri Bhate, learned counsel for the applicant lastly argues that as the investigation is completed, custody of the applicant is no further required. Accordingly, he prays for grant of bail.

5. On the other hand, Ms Shamsi Haider, learned APP opposes the present application and points out that the DNA report supports the case of the prosecution and Assistant Chemical Analyzer has opined that the applicant and the victim are the biological parents. She therefore, submits that the DNA report is sufficient to show that the applicant is involved in the alleged offence.

6. Ms Joshi, learned counsel for the non-applicant No.2/Victim reiterates the submission of the learned APP and prays for rejection of the bail application.

7. I have perused the charge-sheet and also the DNA report.

8. The DNA report discloses that the applicant and the victim are the biological parents. As far as, the submission of the learned counsel for the applicant that there is drastic change in place of incident mentioned in the

FIR and the statement recorded subsequently, will be the part of the trial. At this stage, this Court can only consider whether *prima facie* case is made out by the prosecution to show that the accused is involved in the alleged offence.

9. Considering the material available on record, I am of the view that there is sufficient incriminating material against the applicant. Moreover, affidavit of the mother filed before the trial Court giving no objection for grant of bail to the applicant, is sufficient to say that there is every possibility that the applicant may pressurize the prosecution witnesses if he is released on bail. In that view of the matter, I am not inclined to grant bail. Accordingly, I pass the following order:

The criminal application is **rejected**.

10. The learned counsel for the applicant, at this stage, praying to expedite the trial.

11. Considering the age of the applicant and the fact that the charge-sheet was filed on 12.04.2021, trial Court is requested to expedite the trial.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]