

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

CRIMINAL APPLICATION (BA) NO. 18/2022

Nandkishor Lodu Haramkar...Versus...State of Maharashtra and another

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

Court's or Judge's orders

Mr. R.S.Kurekar, Advocate for the applicant
Ms. Mayuri Deshmukh, APP for respondent No.1/State
Ms. P.D.Rane, Advocate (appointed) for respondent No.2/victim.

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/04/2022

Heard Mr. Kurekar, learned counsel for the applicant and Ms. Deshmukh, learned APP for the State assisted by Ms. Rane, appointed counsel for the victim.

2] The applicant has been arraigned for the offence under Section 363, 376, 376(2)(J) r/w Section 34 of the IPC and Sections 4, 8, 12 and 17 of the POCSO Act in Crime No. 190/2021 registered with the Police Station Janefal, District Buldhana.

3] Mr. Kurekar, learned counsel for the applicant submits that the applicant has been falsely implicated in the offence in question, the statement of the victim under Section 164 of Cr.P.C does not implicate the applicant in any manner whatsoever. It is also contended that there is no medical examination conducted, on account of the refusal of the victim (pg 49) and therefore, the applicant is entitled to bail.

4] Learned APP along with the learned appointed counsel for the victim opposes the application and contend that in the complaint filed on 08.07.2021 there is mention regarding forcible sexual intercourse by the applicant in the night of 27.5.21 at Hotel Gajanan (pg 141) and therefore, the application be rejected.

5] The minor victim is claimed to have gone away with the applicant, as a result of which on 28.5.2021, the mother lodged a report, alleging that she was living with the applicant. The victim has given contradictory statements. In her statement dated 08.07.2021 she has stated that the applicant has had sexual intercourse forcibly with her twice in the night of 27.5.2021, as against which in her statement under Section 164 of Cr.P.C., there is no mention about the same (pg 121). What is material to note is that on 29.5.2021, when the victim was produced before the Medical Officer for examination, she has flatly refused to be examined (pg 49). It is thus apparent that there is no medical report regarding the alleged incident, and so also there are contradictions in the statements of the victim herself, as there are different narratives made, considering which prima facie the allegations at this stage loses its credibility and in my considered opinion, a case for bail is made out. Hence the following order.

O R D E R

[i] The application is allowed.

[ii] The applicant Nandkishor Lodu Haramkar be released on bail in Crime No. 190/2021 registered for the offence under Section 363, 376, 376(2)(J) r/w Section 34 of the IPC and Sections 4, 8, 12 and 17 of the POCSO Act with the Police Station Janefal, District Buldhana, on his executing PR bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.

[iii] The applicant shall not tamper the prosecution evidence directly or indirectly and shall not try to influence the prosecution witnesses in any manner whatsoever.

[iv] The applicant shall attend each and every date of trial before the learned Sessions Court and shall ensure that the trial is not protracted in any manner on his count.

[v] Any violation of the above conditions shall result in cancellation of bail.

6] Appropriate fees be paid to the appointed counsel for the victim.

JUDGE

Rvjalit

Digitally sign byRAJESH
VASANTRAO JALIT
Location:
Signing Date:07.04.2022 18:15