

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

Criminal Application (BA) No. 63 of 2022

[Praful S/o Bhimrao Savale ..vs.. State of Maharashtra through its P.S., P.S. Babulgaon, Tal.
Babulgaon, Dist. Yavatmal and anr.]

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

Court's or Judge's orders

Mr. S. M. Lodha, Advocate for the applicant
Mr. N. R. Rode, A.P.P for non-applicant 1
Ms. Sneha Dhote, Advocate for the victim

CORAM : ROHIT B. DEO, J.

DATED : 5-4-2022

The applicant – accused earlier preferred Criminal Application (BA) 993/2021 seeking bail in connection with Crime 158/2019 registered with Police Station, Babulgaon, District Yavatmal for offences punishable under Sections 363, 366A and 376(2)(n)(i)(j) of the Indian Penal Code and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act.

2. Criminal Application (BA) 993/2021 was disposed of vide order dated 6-10-2021. This Court noted that even earlier, the accused had sought bail vide Criminal Application 75/2021 which was withdrawn. This Court further noted that the charge is framed on 5-12-2020 and yet the evidence has not commenced. This Court requested the trial Court to commence the trial as soon as possible and to conclude the same within

the next nine months. The period of nine months expires in July, 2022.

3. However, in view of the observations in the order dated 6-10-2021 that, if there is no progress in the trial in the coming ninety days, the applicant shall be at liberty to apply for bail afresh before this Court, the present application is moved. This Court is informed that the trial is fixed for recording the evidence of the prosecution on 13-4-2022. I have perused the order sheets placed on record by the learned counsel for the applicant/accused. I am satisfied that the learned Judge did make an attempt to ensure significant progress in the period of ninety days, the case was indeed fixed for recording the evidence, the witness was absent on 26-11-2021 and therefore, the prosecutor was required to take appropriate steps for ensuring the presence of the witness. In the meanwhile, the accused pressed application, Exhibit 24 for audio and video recording of the victim. It is in view of such developments that no significant progress could be achieved in the period of ninety days which is referred to in the order dated 6-10-2021.

4. Considering that the victim has conceived and she was fourteen and seven months as on the date of the offence and that the minimum punishment is 20 years, if the trial culminates in conviction, I am not inclined to consider the request of the accused for bail.

5. However, it is clarified that if the trial does not conclude in the period of nine months which is stipulated in the earlier order dated 6-10-2021, the accused shall be entitled to approach the trial Court for bail. If the trial Court is of the opinion that the delay is not attributable to the accused, the application for bail shall be considered.

6. The fees of learned counsel, Ms. Sneha Dhote appointed for the victim be quantified and paid in accordance with the rules.

JUDGE

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