

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

CRIMINAL APPLICATION (BA) NO.293 OF 2022

Vikas Eknath Misal

Versus

State of Maharashtra, through P.S.O., P.S. Tq. & 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 S.V. Sirpurkar, Advocate for the applicant.

Shri T.A. Mirza, A.P.P. for the non-applicant No.1/State.

CORAM : ANIL S. KILOR, J.

DATED : 20/07/2022

1. The applicant is seeking bail in Crime No.319 of 2021, dated 23.09.2021, registered with Police Station Buldhana, District: Buldhana, for the offences punishable under Sections 376, 376(d), 376(2)(f), 376(2)(j) and 306 read with Section 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act").

2. Shri Sirpurkar, learned counsel for the applicant submits that on the basis of suicide note, the offence came to be registered against the applicant and co-accused Sunil Kalwaghe. He submits that in the suicide note, the victim has not narrated any proximate incident but she has narrated the incident which took place in her childhood.

3. He further submits that the applicant is in jail for more than ten months and as the investigation is completed and the charge-sheet is filed, further custody of the applicant is not necessary. Accordingly, he prays for grant of bail.

4. On the other hand, Shri Mirza, learned APP opposes the present application and submits that, the suicide note is in the hand writing of the deceased and considering the seriousness of the offence, this Court may not grant bail to the applicant.

5. I have perused the Charge-sheet and reply of the State.

6. In this case, the applicant is in jail since more than ten months and the investigation is over. *Prima facie* it appears from the suicide note that, the alleged incident which the deceased has referred to, had taken place in her childhood and there is no proximity with suicide.

7. In the circumstances, as the investigation is over and further custody of the applicant is not necessary, I am of the opinion that the prayer of the applicant can be considered for grant of bail.

8. As far as the apprehension expressed by the learned APP that the applicant and the complainant are the resident of the same village and therefore, there is a possibility that the applicant may pressurize the prosecution witnesses, the same can be addressed by putting some stringent condition. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that the applicant shall be released on bail in Crime No.319 of 2021, dated 23.09.2021, registered with Police Station Buldhana, District: Buldhana, for the offences punishable under Sections 376, 376(d), 376(2)(f), 376(2)(j) and 306 read with Section 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act"), on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall not enter into the territorial jurisdiction village Nandrakoli, Dist. Buldhana, till the culmination of the trial.
- d) The applicant shall provide his address along with name of the nearby Police Station and shall

attend the concerned Police Station on 1st of each month between 10.00 a.m. to 12.00 noon, till the culmination of the trial.

- e) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]