

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

Criminal Application (BA) No.406/2022

Pankaj Lakde V State of Maharashtra thr PSO PS Wani, District Yavatmal and
 another

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

Court's or Judge's Orders

Shri O.R. Deshpande, Advocate for applicant.
 Shri V.A. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.
DATE : 08-06-2022

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.898/2021 registered with Police Station Wani, District Yavatmal on 23-11-2021 for the offences punishable under Sections 376(2)(j) (N) and 376(3) of the Indian Penal Code (IPC) and Sections 4 and 6 of the Protection of Children from Sexual Offence Act, 2012 (Pocso Act).

2. The learned Counsel for the applicant submits that on completion of investigation chargesheet has been filed on 21-01-2022. It is submitted that the applicant is a labourer and is in jail from November 2021. It is further pointed out that on the bail application of the applicant filed before the Sessions Court, on 31-01-2022, the victim has given her say and thereby gave no objection for grant of bail to the applicant. He, therefore, submits that the applicant be released on bail.

3. The learned APP, on the other hand, strongly opposed the application and submits that in this case the victim was 14 years old when the applicant gave her false promise of marriage and established sexual relations with her. He submits that because the victim is minor, the consent of the victim is not relevant. He further submits that the applicant and the victim are the resident of the same locality and there is likelihood that the applicant may pressurize the prosecution witnesses. Accordingly, he prays for rejection of bail application.

4. I have perused the chargesheet and also the contents of the First Information Report (FIR). The applicant is in jail since November 2021. From the chargesheet, it can be seen that when the applicant was 14 years old, a false promise was given by the applicant and on number of occasions he established sexual relations with her. There is also mentioned of termination of pregnancy. The complaint was lodged by the victim on finding that the applicant has refused to marry with her.

5. It is further revealed that on 31-01-2022 the victim submitted her say before the Sessions Judge on the application of applicant. In the said say, the victim has given no objection for grant of bail to the applicant.

6. On completion of investigation, the Investigating Officer has filed chargesheet on 21-01-2022, as such the custody of the applicant is no more required.

7. As far as the apprehension of the learned APP is concerned, that the applicant may pressurize the prosecution witnesses, because he is the resident of the same locality where the victim resides, I am of the opinion that in the above referred backdrop, the applicant should be granted bail on certain conditions. Accordingly, I pass the following order :-

ORDER

i) Application is allowed.

ii) Applicant-Pankaj s/o Gangadhar Lakde be released on bail on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount in connection with Crime No.898/2021 registered with Police Station Wani, District Yavatmal on 23-11-2021 for the offences punishable under Sections 376(2)(J)(N) and 376(3) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offence Act, 2012 (Pocso Act).

iii) The applicant shall not enter the jurisdiction of Wani except for the presence of trial, till the trial is concluded.

(Anil S. Kilor, J.)