

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

CRIMINAL APPLICATION (BA) NO.432 OF 2022

(AKSHAY @ SUNNY KAILASH PARJAPATI...VS.. STATE OF MAH. THR. PSO PS KATOL, DISTRICT:
NAGPUR & ANR.)

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

Court's or Judge's orders

Shri A.R.Prasad, Advocate for Applicant.
Ms Shamsi Haider, A.P.P. for Non-applicant No.1/State.
Shri Ashwin Wasnik, Advocate for Non-applicant No.2.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 15, 2022.

1. Heard.
2. This is an application under Section 439 of the Code of Criminal Procedure for grant of regular bail in Special POSO Case No.13 of 2022, and charge-sheet bearing Final Report No.1 of 2022, arising out of FIR/ Crime No.572 of 2021, registered with Police Station, Katol, District : Nagpur for the offences punishable under Sections 376(2)(j), 363, 114 read with Section 34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.
3. The learned counsel for the applicant submits that after completion of investigation charge-sheet is filed and no further custody of the applicant is necessary. It is submitted that no injury was found on the person of the victim which shows that there was no resistance and it further shows that the allegation that without the consent

of the victim the applicant committed sexual intercourse, *prima-facie* is false. He submits that there is delay in lodging the F.I.R. and the explanation given for such delay is not probable. He lastly argued that the applicant has been falsely implicated in the alleged offence.

4. The learned A.P.P. strongly opposes the application and submits that the offence is serious and there is sufficient material to show that the applicant is involved in the alleged offence.

5. I have perused the charge-sheet, which has been filed after completion of investigation. The applicant is in jail from 10/11/2021 i.e. for about eight months. In the medical report of the victim no injury was found, which *prima-facie* shows that there was no resistance by the victim.

6. The alleged incidence is dated 08/11/2021, whereas the report was lodged on 10/11/2021. Moreover, looking to the prosecution story, I am of the opinion that no further custody of the applicant is necessary. There is nothing to point out that if the applicant is released on bail there is any possibility that he would pressurize the prosecution witnesses or tamper with the prosecution evidence or he will not be available for trial.

6. In that view of the matter, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- i) The application is allowed.
- ii) It is directed that the applicant shall be released on bail in Special POSO Case No.13 of 2022, and chargesheet bearing Final Report No.1 of 2022, arising out of FIR/ Crime No.572 of 2021, registered with Police Station, Katol, District : Nagpur for the offences punishable under Sections 376(2)(j), 363, 114 read with Section 34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 on furnishing P.R. Bond in the sum of Rupees Twenty Five Thousand with one solvent surety in the like amount.
- iii) The applicant shall not pressurize the prosecution witnesses or tamper with the prosecution evidence.
- iv) The applicant shall not enter the jurisdiction of Police Station, Katol, District : Nagpur, till completion of the trial, except for trial.
- v) The applicant shall attend the trial before the Sessions Court regularly on every date unless exemption is granted by the Sessions Court.

The Criminal Application is **disposed of** accordingly.

JUDGE