

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

CRIMINAL APPLICATION (ABA) NO.303 OF 2022

(RAMESH LAXMAN JAYBHAYE..VS..STATE OF MAH. THR. PSO PS, WASHIM)

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

Court's or Judge's orders

Shri S.W.Sambre, Advocate for Applicant.
Shri V.A.Thakre, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : JUNE 13, 2022.

1. Heard.

2. The applicant is seeking pre-arrest bail in Crime No.127 of 2022 registered on 07/04/2022 with Police Station, Washim (Rural), District : Washim for the offences punishable under Sections 166, 201 read with Section 34 of the Indian Penal Code and Section 21 of the Protection of Children from Sexual Offences Act, 2012.

3. The case of the prosecution is that the accused persons, including the applicant, despite the fact that the Medical Officer, Civil Hospital, Washim gave information that the minor victim has been admitted in the hospital for termination of pregnancy and though the said information was received an accidental case came to be registered. No necessary steps were taken and kept the inquiry lingering for more than 3 months. It is also alleged that no efforts were taken by the accused persons to collect and preserve the DNA sample of the dead child.

4. The learned counsel for the applicant submits that the applicant was working as Police Sub-Inspector at the relevant time at Police Station, Washim (Rural) and was also in-charge of Station Diary. On receiving the information that a lady Pooja admitted in the hospital for termination of pregnancy, Police Head Constable Prakash Chavhan has taken note of the same in the general diary details.

5. It is further submitted that the applicant has registered F.I.R. No.414/2020 for the offence punishable under Section 376(2) and Section 4 of the POSCO Act against unknown person. Thereafter statements of father and mother of the victim were also recorded. He, therefore, submits that looking to the limited role of the applicant, custody of the applicant is not necessary. He lastly argues that at the time of granting of *ad-interim* anticipatory bail this Court had directed the applicant to attend the Police Station, accordingly he has attended the Police Station and there is no complaint of abuse of the concession.

6. On the other hand, learned A.P.P. strongly opposed the application and submits that though the offence is serious the accused persons kept the matter lingering for more than 3 months. It is submitted that the said fact speaks for itself that for extraneous consideration no steps were taken by the accused persons against the culprits.

7. It is submitted that even the offence is registered against the concerned Police Station Officer i.e. applicant and after inquiry it is revealed that the accused persons are responsible for not registering the offence immediately against the person(s) guilty in Crime No. 414 of 2020.

8. The learned A.P.P. further submits that custodial interrogation of the applicant is necessary for investigation and to find out other persons who are involved in the alleged offence. It is submitted that the offence is very serious and if the applicant is released on bail there is every possibility that he may misuse his position and pressurize the prosecution witnesses or tamper the prosecution evidence.

9. In the light of the submissions made by the learned counsel for the applicant and the learned A.P.P., I have perused the case diary and also the F.I.R.

10. From the case diary, it can be revealed that despite the information received from the Medical Officer, Civil Hospital, Washim on 16/04/2020 no immediate steps were taken by the accused persons, which ought to have taken by them. *Prima-facie*, it appears that they kept the matter lingering for more than three months and even they did not take efforts to preserve or collect the DNA sample of the deceased child.

11. Considering the severity of the punishment and the nature of the offence, I am of the opinion that custodial interrogation in this case is necessary. Moreover, the apprehension expressed by the learned A.P.P. that the applicant may pressurize the prosecution witnesses cannot be ruled out. In the circumstances, I pass the following order:

The Criminal Application is **rejected**.

JUDGE

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