

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

CRIMINAL APPLICATION (BA) NO. 502 OF 2022

Niraj @ Golu s/o Tulsidas Kothar **Versus** State of Maharashtra, thr. PSO., Kholapuri Gate Amravati 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 P.Navlani, counsel for the applicant.

Ms Shamshi Haider, A.P.P. for the non-applicant No.1/State.

Shri H.D. Marathe, counsel for the non-applicant No.2.

CORAM : ANIL S. KILOR, J.
DATED : 19/07/2022.

1. The applicant is seeking bail in connection with Crime No. 414/2021, registered with Police Station Kolhapuri Gate, Amravati, Tq. & Dist. Amravati, for the offences punishable under Sections 376 (AB) of the Indian Penal Code, 1860 and Sections 4,6,8 of the POCSO Act.

2. Shri P. Navlani, learned counsel for the applicant submits that if the statements of mother and father of the victim is considered, it can be seen that, there was no such intention to commit any such offence. It is submitted that while playing, as a part of the game without knowing any serious consequences of the game, it was happened.

3. He points out from the medical report that the Doctor has opined that there are no finding of sexual assault. Thus, he submits that at this stage, there is nothing to point

out any sexual assault was there, as alleged by the prosecution.

4. He further submits that the applicant, who is 19 years of old boy, is in Jail since 17/08/2021 and as the investigation is completed, further custody of the applicant is not required.

5. On the other hand, Ms Shamshi Haider, learned APP strongly opposed the present application and submits that the offence is serious and considering the character of the evidence collected by the Investigating Officer, this Court may not grant bail to the applicant.

6. Shri H.D. Marathe, learned counsel for the victim reiterates the submissions of the learned APP and prays for rejection of the present application.

7. I have perused the Charge-sheet, Application and Reply filed by the State.

8. The Doctor in his medical examination report of the victim, has observed that there were no findings of sexual assault. Moreover, considering the statements of the victim and her parents, *prima-facie*, it appears that the alleged incident took place while accused including the applicant and two juvenile were playing with the victim. The accused and the victims are the close relatives.

9. The applicant is 19 years of old and he is in jail since 17/08/2021. In this case, the investigation is completed and charge-sheet has been filed.

10. In the circumstances, the apprehension expressed by the learned APP that if the applicant is released on bail, he may pressurize the prosecution witnesses, can be addressed by imposing some stringent conditions. Thus, I pass the following order:

i) Criminal application is **allowed**.

ii) It is directed that the applicant shall be released on bail in connection with Crime No. 414/2021, registered with Police Station Kolhapuri Gate, Amravati, Tq. & Dist. Amravati, for the offences punishable under Sections 376 (AB) of the Indian Penal Code, 1860 and Sections 4,6,8 of the POCSO Act, the applicant shall be released on on furnishing P.R. Bond in the sum of Rupees 25,000/- with one solvent surety in the like amount of the applicant.

iii) The applicant shall not tamper with the prosecution evidence and shall not pressurize the prosecution witnesses.

iv) The applicant shall not entered the territorial jurisdiction of Amravati City, till the culmination of trial, except for the trial.

v) The applicant shall provide his address along with the name of nearby Police Station and shall attend the said Police Station on 1st day of every month between 10.00 a.m. to 11.00 a.m., till culmination of the trial.

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

[ANIL S. KILOR, J.]