

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

Criminal Application (BA) No. 660 of 2022

Harshal s/o Kailash Thakre **Versus** The State of Maharashtra thr. PSO.,
PS. MIDC, Nagpur 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 C.R.Thakur, counsel for the applicant.

Shri V.A.Thakre, APP for the State / Non-applicant No.1.

CORAM : ANIL S. KILOR, J.

DATED : 25/08/2022

1. The applicant is seeking bail in connection with Crime No. 697 of 2021, registered with Police Station, M.I.D.C., District Nagpur for the offences punishable under Sections 376(2)(n), 376-D, 372, 373, 392, 323, 506, 34 of the Indian Penal Code, 1860 and Sections 4 and 8 of the Protection of Children from Sexual Offences Act and under Sections 4 and 5 of the Immoral Traffic Act.

2. Shri C.R.Thakur, learned counsel for the applicant submits that, in the FIR the applicant was not named and the allegations were against the main accused- Akash Bhandari and the other three accused namely (1) Ajay Surankar (2) Sandip Pandhare and (3) Firoz @ Jamal Sheikh and three unknown persons were also arraigned as unknown accused person. However, in the statement of 164 of Code of Criminal Procedure, she first time disclosed the

name of the applicant and stated that on 02.10.2021, the applicant committed rape.

3. He has further argued that, only because the Car was seized from the applicant which stands in the name of the applicant, he has been arraigned in the FIR.

4. It is submitted that, the applicant is in jail for about last eleven months and as the investigation is completed and charge-sheet has been filed his further custody is not required. As such, he prays for grant of bail.

5. On the other hand, learned APP strongly opposed the present application and submits that there are statements of other witnesses, which were recorded under Section 164 of Code of Criminal Procedure, in addition to the statement of victim, which support the case of the prosecution.

6. He further submits that, as the allegations are serious and the nature of offence is heinous, this Court may not grant bail to the applicant. Accordingly, he prays for rejection of the present application.

7. I have perused the Charge-sheet and the application.

8. From the FIR, it can be seen that, the applicant was not named FIR, however, in the statement under Section 164 of Code of Criminal Procedure, the victim disclosed the name of applicant for the first time.

9. As per the statement under Section 164 of the Code of Criminal Procedure, the applicant is connected

with the alleged incident took place on 02.10.2021. Whereas, in the FIR, the allegations as regards incident dated 02.10.2021, are against the accused Nos. 1 to 4 and not against the applicant.

10. Moreover, other statements under Section 164 of the Code of Criminal Procedure, show the involvement of the Akash the main accused in the present offence and not of the applicant.

11. In this case, the investigation is over and the charge-sheet has been filed. The applicant is in jail from last about eleven months and considering the nature of the material collected by the prosecution, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order.

- a) The criminal application is **allowed**.
- b) It is directed that in connection with Crime No. 697 of 2021, registered with Police Station, M.I.D.C., District Nagpur for the offences punishable under Sections 376(2)(n), 376-D, 372, 373, 392, 323, 506, 34 of the Indian Penal Code, 1860 and Sections 4 and 8 of the Protection of Children from Sexual Offences Act and under Sections 4 and 5 of the Immoral Traffic Act, the applicant shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.

- c) The applicant shall attend the concerned Police Station as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]