

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

CRIMINAL APPLICATION (APPA) NO.520/2022

IN

CRIMINAL APPEAL NO.421/2022

Yash Sadanand Meshram and ors

..VS..

State of Mah., thr.PSO PS Jaripatka, Nagpur, District Nagpur and anr

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

Court's or Judge's Order

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Shri R.M.Patwardhan, Counsel for Applicants.
Shri A.M.Jaltare, Counsel for Respondent 2.
Shri N.S.Rao, Additional Public Prosecutor for the State.

CORAM : ROHIT B.DEO & URMILA JOSHI-PHALKE, JJ.

DATED : 16/12/2022

1. The applicants are seeking suspension of sentence and for grant of bail.

2. Applicant 1 is convicted of offences punishable under Section 363 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years, under Section 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years, under Section 354-A(1)(i) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for two years and under Section 11(i) read with Section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and sentenced to suffer rigorous imprisonment for one year. Applicants 2 and 3 are convicted of offence punishable under Section 506 read with Section 34 of the Indian Penal Code and are sentenced to suffer rigorous imprisonment for five years. All applicants are convicted of offence punishable

under Section 376-DA of the Indian Penal Code and are sentenced to suffer life imprisonment. They are also convicted of offence punishable under Section 376(3) read with Section 34 of the Indian Penal Code and under Section 5(g) read with Section 6 of the POCSO Act.

3. Learned counsel Shri R.M.Patwardhan for applicants has twin submissions to canvass, first submission is that version of the prosecutrix is inherently unreliable inasmuch as while according to her, incident occurred on 25.8.2020, report is lodged on 28.9.2020 and there is no satisfactory explanation why the victim remained silent for more than a month. The extension of the submission is that her version that initially accused 1 Yash had physical relationship with her and then the other accused came at the spot and ravished her, is not confidence inspiring inasmuch there is no material on record to suggest that other co-accused were aware that the victim and accused had gone for outing. In this context, further submission is that in the cross-examination the victim has admitted that all the accused used to chit-chat in front of her house and this was not liked by her brother. It has further come on record that there were quarrels between the accused and the brother of the victim and one report, which is treated as not cognizable and exhibited through the evidence of Investigating Officer, was lodged by the accused against the brother of the victim. Finally, the submission is that applicants have no criminal antecedents and are, therefore, entitled to bail considering that the final hearing of the appeal may take its own time.

4. Learned Additional Public Prosecutor Shri N.S.Rao for the State and learned counsel for the victim would strongly oppose the bail arguing that the offence proved is heinous.

5. While we are consciously refraining from making any positive observations, we are satisfied that considering the material on record, a case for bail is made out.

6. The application is allowed.

7. The applicants be released on bail subject to such terms and conditions as may be imposed by learned Trial Judge.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B.DEO , J.)

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