

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

CRIMINAL APPLICATION (BA) NO.829 OF 2022

Sajid S/o Maksood Sheikh

Versus

State of Maharashtra, through P.S.O., P.S. Ambazari, 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.B. Barve, Advocate for the applicant.

Shri S.D. Sirpurkar, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 17/08/2022

1. The applicant is seeking bail in Crime No.42 of 2022, dated 10.02.2022, registered with Police Station Dhantoli, District: Nagpur, for the offences punishable under Sections 363 and 376(d) read with Section 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act").

2. Shri Barve, learned counsel for the applicant submits that though in the First Information Report (FIR) the name was stated by the informant, who is a minor girl, a victim in this case, she did not state anything against the applicant in her statement under Section 164 of the Code of Criminal Procedure.

3. It is submitted that the applicant is in jail from February, 2022 and as the investigation is completed, the custody of the applicant is no more required.

4. He further states that even before the trial Court, the victim did not oppose the bail application of the applicant and accordingly, he submits that the applicant may be released on bail.

5. On the other hand, Shri Sirpurkar, learned APP strongly opposes the present application and submits that there is sufficient incriminating material available on record against the applicant. It is pointed out that the spot of incident is the flat, which is owned by the applicant.

6. It is further submitted that the offence is very serious and considering the nature of the allegations, it is prayed that this Court may not grant bail to the applicant.

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

8. On the date of incident, the applicant was 17 years old, she was minor. She was intoxicated and thereafter, sexual assault was committed on her by all the accused. The crime is heinous and considering the severity of punishment, I am of the opinion that the applicant is not entitled for grant of bail.

9. In this case, admittedly the flat which was the spot of occurrence, is owned by the applicant and in the FIR, the victim has named the applicant and also attributed specific role to him. Thus, considering the allegations made in the FIR, which are of serious nature and the role attributed to the applicant, I am not inclined to grant bail to the applicant. Accordingly, I pass the following order:

The criminal application is **rejected**.

10. At this stage, the learned counsel for the applicant seeks liberty to file a fresh application, in case, there is no progress in trial, in near future.

11. Liberty to file a fresh application, is granted in case, there is no progress in trial, in next nine months.

[ANIL S. KILOR, J.]