

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

**CRIMINAL APPLICATION (BA) NO. 907 OF 2022**

Himanshu s/o Vijay Khobragade **Versus** State of Maharashtra, through PSO.,  
P.S. Ballarsha, Tq. Ballarsha, Dist. Chandrapur and another.

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

Mr A.A. Naik, Advocate with Mr A.S. Ambatkar, Advocate for the applicant.  
Ms K.R.Deshpande, A.P.P. for the non-applicant /State.  
Mrs Deepa I Charlewar, Advocate (appointed) for non-applicant No.2/Victim.

**CORAM : ANIL S. KILOR, J.**  
**DATED : 26/09/2022**

Heard.

2. The applicant is seeking bail in connection with Crime No. 1332/2021, dated 10/12/2021 registered with Police Station, Ballarsha, District Chandrapur for the offences punishable under Sections 306, 305, 376, 376(1) and 506 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short POCSO Act)

3. Shri A.A. Naik, learned counsel for the applicant submits that, initially the offence was registered under Section 306 of the Indian Penal Code and later on the offences under Sections 305, 376 and 376(1) and Section 506 of the Indian Penal Code and Section 4 of POCSO Act were added.

4. It is pointed out that, the applicant is in jail from last nine months and after completion of the investigation, the charge-sheet has been filed.

5. He further points out the discrepancies in the statement of the witnesses recorded by the Investigating Officer during the investigation which according to him creates doubt about the veracity of allegations made in the FIR thus, he prays for grant of bail.

6. On the other hand, learned APP strongly opposed the present application, he submits that the offence is serious and as the Investigating Officer has collected the sufficient evidence against the applicant, this Court may not grant bail to the applicant.

7. Ms Charlewar, learned counsel for the victim reiterates the submissions of the learned APP and prays for rejection of the present application.

8. As far as the story of the prosecution, as regards the threats given by the applicant to the victim, to make the photographs and videos of her, viral, came first time in Section 164 of Code of Criminal Procedure statement of Gayatri Gajanan Tambole, who is neighbor.

9. I have perused the charge-sheet and the application.

10. From the charge-sheet, it can be seen that there was love affair between the applicant and the victim. Prior

to commission of offence, it appears that there was some quarrel between the applicant and the victim.

11. In the statement of one Vilas Damaji Walke he states that a friend of the victim informed him that because of quarrel with the applicant the victim committed suicide. This witness in his statement referred to the name of the friend of the victim i.e. Saniya Khan. Whereas, in the statement of Saniya Khan, she did not refer to any such conversation between her and the victim.

12. Initially, the offence was registered under Section 306 of the Indian Penal Code. However, *prima-facie*, from the evidence collected by the prosecution, it is doubtful whether the applicant is the abator as defined under Section 107 of the Indian Penal Code, in this case.

13. In the above referred back-drop and considering the fact that, the applicant is in jail from last nine months, 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. 1332/2021, dated 10/12/2021 registered with Police Station, Ballarsha, District Chandrapur for the offences punishable under Sections 306, 305, 376, 376(1) and 506 of the Indian Penal Code, 1860 and Section 4 of the Protection of

Children from Sexual Offences Act, 2012 (for short POCSO Act), the applicant shall be released on bail on furnishing P.R. Bond of Rs.20,000/- with one solvent surety in the like amount;

- c) The applicant shall attend the concerned Police Station on 1<sup>st</sup> and 16<sup>th</sup> day of each month between 10.00 a.m. to 12.00 noon, till the culmination of the trial;
- d) The State is at liberty to apply for cancellation of bail, in case the applicant commits similar offence or breach the condition;
- e) Fees of the learned counsel for the Non-applicant No.2 is quantified as per Rules.
- f) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]