

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

**CRIMINAL APPLICATION (BA) NO.1084 OF 2022**

Kashinath s/o Eknath Pawar Vs. State of Maharashtra and another

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

Court's or Judge's orders.

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Shri Alpesh Deshmukh, Advocate for applicant.  
Shri S.D. Sirpurkar, APP for non-applicant no.1.  
Ms P.M. Mane, Advocate for non-applicant no.2.

**CORAM : G.A. SANAP, J.**

**DATE : NOVEMBER 10, 2022.**

The applicant-accused has made this application for bail in Crime No.526/2021 registered at Police Station, Karanja, District Washim for the offences punishable under Sections 376, 376(2)(n), 376(2)(f) of the Indian Penal Code and Sections 3, 4, 5 and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. It is the case of the applicant that he is innocent and he has not played any role in the commission of the crime. He has been falsely implicated in the crime. There is inordinate delay in lodging the report. The trial is not conducted expeditiously. He has been languishing in jail since one year. The victim is of the age of understanding and therefore the age may not be a ground to deny bail to the applicant.

3. The application has been opposed by the State. It is contended that there is voluminous evidence to prima facie establish the complicity of the accused in the commission of

crime. The DNA report has confirmed the accused and the victim are biological parents of the child born to the victim. The victim was minor and therefore the defence of consent would be immaterial. The accused is brother-in-law of the victim and therefore, the possibility of pressurizing or threatening the victim to tow her line cannot be ruled out.

4. The victim has filed the reply. The victim as on today has completed 18 years of age. She has recorded her no objection for grant of bail to the applicant-accused.

5. I have heard learned advocate for the applicant, learned APP for non-applicant no.1/State and learned advocate for the non-applicant no.2/victim. Perused the record and proceedings.

6. The learned Additional Sessions Judge recorded the reasons for rejection of the bail application made by the applicant. One of the grounds for rejection of bail application is, possibility of tampering with the prosecution evidence or threatening the victim at the behest of the applicant-accused.

7. In order to meet this factual position, the learned advocate, drawing support from the reply of the victim submitted that now the victim has given her no objection. It appears on perusal of the reply that the victim has towed the line of the accused and therefore consented for grant of his application. The victim is sister-in-law of the accused. The

accused and the victim are residing in same locality. This fact has been particularly taken into consideration by the learned Additional Sessions Judge while rejecting the bail application.

8. It is to be noted that sudden change by the victim is clear indication that somehow or other the people connected with the accused have prevailed upon her. It is to be noted that if the victim had no grievance against the applicant at the initial stage, the family members of the victim would not have lodged the report. The overwhelming evidence in the form of DNA report as on today is against the applicant-accused. The victim, as can be seen from, *prima facie*, perusal of the evidence, was about 17 years old on the date of the commission of the crime.

9. In my view, considering the serious nature of the crime and the evidence in the form of DNA report, it would not be proper to enlarge the applicant on bail. The circumstances under which the victim has filed such reply are not known to the prosecution. The victim would be required to come before the Court and give evidence. When she would come before the Court and depose about the circumstances, which led to the change of her mind, it could then be subjected to scrutiny and appreciation. In the facts and circumstances, no case has been made out to grant bail to the applicant-accused. The crime is a serious. The unmindful act of the accused has made unfortunate child to live the life as orphan.

10. In the facts and circumstances and with a view to avoid unnecessary delay, the trial Court should expedite the hearing of the trial and dispose of the same in any case within period of six months from today by strictly following the provisions of Section 309(1) of the Code of Criminal Procedure.

11. The application stands rejected.

**JUDGE**

*Wagh*