

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

CRIMINAL APPLICATION (BA) NO. 1115 OF 2022

Suraj Ramesh Kolteke .Vs. State of Maharashtra 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 K.P.Mahalle, counsel for the applicant.

Shri N.R.Rode, A.P.P. for the non-applicant No.1/State.

Shri N.R. Tekade, counsel for the non-applicant No.2.

CORAM : ANIL S. KILOR, J.

DATED : 23/11/2022

1. Heard.
2. The applicant is seeking bail in connection with Crime No. 371/2022 registered with Police Station Ramdaspath, Dist. Akola for the offences punishable under Sections 376, 376(2) (j), 34 and 506 of the Indian Penal Code read with Section 4 and 17 of the Protection of Children from Sexual Offences Act (POCSO).
3. The victim, who is claiming to be a minor on the date of incident, has alleged that, the applicant against her wish forcefully committed sexual intercourse.
4. As per the report, the alleged incident took place in the month of March-2022. Whereas, the report was lodged in the month of June-2022 i.e. after three months of the incident. No explanation has been offered for such delay. There is no mention that, she was under trauma or shock, and the delayed period was taken to come out of such trauma.

5. Moreover, there is a dispute about her age. The Aadhar Card of the victim shows that her date of birth 17/07/2003 and accordingly she was more than 18 years of age.

6. In the case diary, there is a birth certificate which shows that the date of birth is 17/07/2005. However, it was updated on 10.06.2022. Hence, it creates doubt about the genuineness it.

7. Thus, in absence of any sufficient evidence about the age of the victim and considering the delay along with other circumstances coupled with the period of incarceration of the applicant, I am of the opinion that, the applicant is entitled for grant of bail.

8. Moreover, in this case, investigation is completed and the charge-sheet has been filed. Thus, further custody of the applicant is not necessary. In the circumstances, though the learned APP and learned counsel for the non-applicant No.2/Victim have strongly opposed the present application, I am of the opinion that applicant is entitled for bail. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that in connection with Crime No. 371/2022 registered with Police Station Ramdaspath, Dist. Akola for the offences punishable under Sections 376, 376(2) (j), 34 and 506 of the Indian Penal Code read with

Sections 4 and 17 of the Protection of Children from Sexual Offences Act (POCSO), 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 on 1st and 16th 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 move application for cancellation of bail, in case of breach of any condition or the applicant repeats the similar offence
- e) The applicant shall not tamper with the prosecution witnesses.

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

JUDGE