

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

CRIMINAL APPLICATION (BA) NO.1355 OF 2021

Jivan S/o Mahadev Khandare

Versus

State of Maharashtra, through P.S.O., P.S. Risod, Tq. Risod, Dist. Washim 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 P.S. Wathore, Advocate for the applicant.

Ms M.A. Barbde, A.P.P. for the non-applicant No.1/State.

Mrs. Deepa I. Charlewar, Advocate for the non-applicant No.2
(Appointed).

CORAM : ANIL S. KILOR, J.

DATED : 10/06/2022

1. The applicant is seeking bail in Crime No.509 of 2021, dated 12.06.2021, registered with Police Station Risod, District Washim, for the offences punishable under Sections 376, 363, 323, 504, 506 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 Wathore, learned counsel for the applicant submits that in this case, the charge-sheet has been filed on completion of the investigation and therefore, the custody of the applicant is necessary. It is submitted that the applicant is in jail since 24.07.2021. He further submits that

from the contents of the First Information Report (FIR), the provision of Section 363 of the IPC does not attract. He, accordingly, prays for grant of bail.

3. On the other hand, Ms Barbde, learned APP opposes the present application and submits that the offences is serious and victim is minor. She, accordingly, prays for rejection of the present application.

4. Mrs. Deepa I Charlewar, learned counsel for the non-applicant No.2- victim reiterates the submission of the learned APP and prays for rejection of this application.

5. I have perused the Case Diary and also the contents of the First Information Report (FIR).

6. From the allegations made in the FIR, it can be seen that though the applicant had promised the victim to marry with her and he took her to his house whereupon, his mother and aunt opposed. Further, they had driven out the victim from the house and accordingly, the report was lodged. Thus, *prima facie* it cannot be said that promise of marriage was false.

7. In this case, after completion of the investigation, the charge-sheet has been filed and no further custody is required. There is nothing to show that the

applicant would pressurize the prosecution witnesses or tamper with the prosecution witnesses and he will not be available for trial.

8. In that view of the matter, 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 the event of arrest of the applicant in Crime No.509 of 2021, dated 12.06.2021, registered with Police Station Risod, District Washim, for the offences punishable under Sections 376, 363, 323, 504 and 506 read with Section 34 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 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 as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.

- e) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.
- f) Mrs. Deepa I. Charlewar, learned Advocate is entitled to receive his professional charges from the High Court Legal Services Sub-Committee, Nagpur, which I quantify Rs.2,500/-.

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

[ANIL S. KILOR, J.]