

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

CRIMINAL APPLICATION (BA) NO.65 OF 2023

Namdeo Surajdin Tanves Vs. State of Maharashtra and another

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

Court's or Judge's orders.

Shri P.R. Agrawal, Advocate for applicant.
 Shri A.M. Kadukar, APP for non-applicant no.1/State.
 Shri A.S. Ambatkar, Advocate for non-applicant no.2.

CORAM : ANIL L. PANSARE, J.
DATE : MARCH 03, 2023.

This is an application under Section 439 of the Code of Criminal Procedure (for short, "Code").

2. The applicant is arrested on 11.12.2021 in Crime No.0470/2021 registered with Police Station, Nandgaon Peth, Amravati City, Amravati for the offence punishable under Sections 376, 376AAB, 376(2)(f), 323, 506 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, "POCSO Act").

3. It is painful to note that the applicant/father is blamed to have committed rape on his own daughter, who is 8 years old. After having heard both sides, it appears that there was matrimonial discord between the applicant and his wife. It is specific case of the applicant that he has been falsely implicated in the crime. The accusation is that the applicant

removed the undergarments of his daughter and attempted to commit penetrative sex forcefully. The medical report however does not favour this allegation.

4. The learned counsel for the informant/wife has now come-up before the Court and submits that she has no objection if the applicant is released on bail. Learned counsel further submits that he is in receipt of written instructions dated 24.02.2023 to that effect. It is submitted that FIR has been lodged under the ill advice of some of the relatives. It appears that the informant has given no objection before the learned Sessions Court as well

5. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial. On enquiry of antecedence, the learned advocate for the applicant submits that there are no criminal antecedence against the applicant. The applicant is staying since long at the address mentioned in the application. Thus, the applicant is having strong roots in the locality.

6. In the circumstances and considering the nature of evidence against the applicant and subsequent development in the matter, no fruitful purpose will be served by keeping the applicant behind bars.

7. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The learned trial Judge shall not get influenced with the above observations.

8. Resultantly, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Namdeo Surajdin Tanves, be released on bail, in Crime No.0470/2021 registered with Police Station, Nandgaon Peth, Amravati City, Amravati for the offence punishable under Sections 376, 376AAB, 376(2)(f), 323, 506 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, on he furnishing P.R. Bond in the sum of ₹50,000/- with one or two sureties in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.
- (iv) The applicant shall not enter into the territorial jurisdiction of Police Station, Nandgaon Peth, Amravati City, Amravati and shall not contact his wife and his two daughters, in any manner.
- (v) The applicant shall regularly attend the Court and cooperate the learned trial Court to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(vi) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vii) The applicant shall maintain law and order.

(viii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.

JUDGE

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