

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

CRIMINAL APPLICATION (BA) NO. 224/2023

Akshay Madhukarrao Sonawane .vs. State of Maharashtra

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

Court's or Judge's orders

Mrs. S. Jadhav, Advocate for applicant.

Mr. M. J. Khan, A.P.P. for non applicant-State.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 13, 2023.

This is an application under Section 439 of the Code of Criminal, 1973. The applicant has been arrested in Crime No.249/2022, registered with Police Station, Sirajgaon, Dist. Amravati for the offences punishable under Sections 302, 376(D) and 506 of the Indian Penal Code, 1860.

2. Heard both the sides. First Information Report has been lodged by father of the deceased. He states that the marriage of deceased was fixed and was to be performed on or about 06.07.2022. On 05.07.2022, after performing *Haldi* ceremony, all family members of the informant proceeded to sleep. The deceased was sleeping with her mother. In the morning at about 05.05 a.m., when the informant got up, he found that the deceased was not in house. He made an attempt to go out but then the door was closed from outside. The mobile of the deceased was kept at home. It was noticed that there was a phone call between Mahesh Khanoje and the deceased. The informant approached Mahesh and inquired with him, to which Mahesh stated that he has not made any phone call and chat, the deceased had called her. The informant then lodged report of

missing. On 12.07.2022, the body of the deceased was found floating in the water of nearby well. Informant suspected role of accused no.1 - Mahesh.

3. It appears that the involvement of the applicant has been disclosed in interrogation of accused no.1. Learned A.P.P. has invited my attention to the statement of Avinash Chachane, the proposed groom. He stated that on 15.06.2022, he got engaged to the deceased. On 14.06.2022, he received phone call from Mahesh. He threatened not to marry the deceased. He said that if she (deceased) does not marry him, he will allow her to marry anyone else. Upon this, the witness made a phone call to the deceased and informed her of the threat call, to which the deceased responded by stating that Mahesh is her friend and that he and the applicant had an evil eye on her and therefore he (accused no.1) is opposing the marriage.

4. When inquired, learned A.P.P. submits that CDR indicates that there were phone calls between accused no.1 and the deceased. Then it appears that the deceased also made phone calls to accused no.1. On further inquiry, learned A.P.P. submits that there are no phone calls between the applicant and the deceased.

5. The allegation against the accused person is that they have committed gang rape on the victim and thereafter killed her. However, there is no medical evidence to that effect.

6. Learned A.P.P. submits that the body was decomposed. Therefore, the prosecution could not get supporting evidence.

7. If that be so, on the basis of interrogation of co-accused only, the applicant cannot be subjected to further incarceration.

8. When inquired of antecedents, learned counsel for the applicant submits that there are no criminal antecedents. The applicant is residing at the given address since long. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial.

9. In view of the above and considering the peculiar facts of the case and the nature of evidence against the applicant so also the presumption that the person accused of a crime is considered to be innocent until proven guilty, I am of the considered view that no fruitful purpose will be served by keeping the applicant in jail. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

10. The observations made in this order are prima facie in nature and are made for deciding the present application only. The trial Court shall not get influenced by the observations made in this order.

11. Hence, following order

ORDER

(i) The application is allowed.

(ii) Applicant Akshay Madhukarrao Sonawane, be released on bail in Crime No.249/2022, registered with Police Station, Sirajgaon, Dist. Amravati for the offences punishable under Sections 302, 376(D) and 506 of the Indian Penal Code, 1860,

on he executing PR. Bond in the sum of Rs.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 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.

(v) The applicant shall regularly attend the court and co-operate the learned trial court to complete the trial for the above offence. The applicant shall regularly attend the court and co-operate the learned trial court to complete the trial for the above offence. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(vi) The applicant shall maintain law and order.

(vii) 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.

(Anil L. Pansare, J.)