



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

Criminal Application (BA) No. 1231 of 2024

Riyaj Salman Sheikh

Versus

The State of Maharashtra through Police Station Officer, Nandanwan Tah.
District Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. P.S.Kosare, Advocate h/f Shri B.B.Sone, Advocate
for the applicant.

Ms. T.H.Udeshi, APP for the non-applicant/State.

CORAM : G.A.SANAP, J.

DATED : 10th JANUARY, 2025.

Heard.

2. This is an application for bail filed by the accused. Regular bail was granted to this accused. Prosecution has completed the recording of evidence of the witnesses. Even the statement of accused under Section 313 of the Code of Criminal Procedure, has been recorded. The record shows that the charge was amended/alterd and as a result thereof the accused applied for recall of the PW Nos. 2, 3 and 4. Learned

Judge allowed the application for recall. The record shows that the matter was fixed for recording the cross-examination of the witnesses. However, on 9th September, 2024 and 25th September, 2024, the accused remained absent. Learned Judge was therefore constrained to issue non-bailable warrant against the accused. Accused applied for cancellation of non-bailable warrant. On 1st October, 2024, the accused was taken into custody and since then he has been in jail. Accused made the application for bail vide Exhibit 178. The learned Judge vide order dated 21st October, 2024 rejected his application.

3. Learned advocate for the accused submitted that during the pendency of the trial, the accused has regularly attended the Court. There was lapse on his part to attend the Court on account of some misunderstanding and lack of communication. It is submitted that thereafter on some of the dates witnesses were not present and on some of the dates the accused was not produced. The record shows that the trial is almost on the verge of completion. The charge was altered/amended and it necessitated recalling of the witnesses. It is not the grievance of the prosecution that the accused has committed breach of the bail conditions. In my view since the accused was entitled to get a bail

during the pendency of the trial, it would be just and proper to allow his application. The grievance made by the prosecution can be redressed by imposing appropriate conditions as well as issuance of directions to the accused to file an undertaking.

4. Learned advocate submits that the defence advocate is ready to conduct the cross-examination of all the three witnesses on 15th January, 2025 viz the date fixed by the trial Court for recording the cross-examination. In view of this, I proceed to pass the following order.

i] Criminal Application is allowed.

ii] Applicant – Riyaj Salman Sheikh be released on bail in Crime No. 423 of 2020 (Special Case No. 415 of 2020) registered at Nandanwan Police Station, District Nagpur, for the offence punishable under Sections 363, 376, 376AB of Indian Penal Code read with Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 on his furnishing P.R.Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety in the like amount.

iii] Applicant shall submit an undertaking before the Court stating that till completion of the trial, except in extreme urgency, he will not remain absent.

iv] Learned advocate for the accused shall complete the cross-examination of all the three witnesses, who have been recalled, on 15th January, 2025.

v] Learned Prosecutor shall see that all the recalled witnesses remain present before the Court on 15th January, 2025.

5. The Criminal Application stands disposed of accordingly.

[G.A.SANAP, J.]