

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION (BA) NO.95/2023

Aditya Gajanan Bodade (In Jail) .vs. State of Maharashtra through its PSO P.S.
Jalgaon Jamod, Dist. Buldhana.

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.
Mr. A. M. Kadukar, A.P.P. for non applicant no.1-State.
Ms F. Badani, Advocate appointed for informant.

CORAM : ANIL L. PANSARE, J.
DATE : FEBRUARY 28, 2023.

This is an application under Section 439 of the Code of Criminal Procedure, 1973, The applicant has been arrested on 19.07.2022 in Crime No.416/2022, registered with Police Station, Jalgaon Jamod, Dist. Buldhana for the offences punishable under Sections 306, 366, 354 (A), 120(B), 341, 323, 506 read with Section 34 of the Indian Penal Code, 1860. Learned counsel for the applicant submits that the applicant belongs to the Scheduled Caste hence he could not have been charge-sheeted for the offence under the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The law was set in motion by husband of the deceased. He has lodged report on 16.07.2022, blaming one Nilesh Mane for suicide committed by informant's wife – Karuna. The informant has stated in oral report that he was working at Mumbai and was involved in centering work. His wife stayed back at Akoli, Taluka Sangrampur, District Buldhana. It appears that Nilesh owed Rs.3,000/- to the informant and his wife for they had carried out some agricultural labour work. The victim,

after having discussed with the informant, is said to have met Nilesh. However, she did not return. On 16.06.2022, body of victim was found in the well. The informant suspected that the victim has committed suicide because she was in need of money and that Nilesh avoided to pay Rs.3,000/- . Accordingly, blamed Nilesh for the offence.

3. It appears that during investigation it was found that it is not Nilesh but some other persons who are behind the crime. The investigating agency has recorded statement of Nilesh on 18.07.2022. He has stated that on 15.07.2022, he along with his friend Vilas Dande and the victim went for a ride on motorcycle. They had been to water park at Daryapur, Madhya Pradesh. However, since it was crowded, they had lunch at Dhaba and came to Jalgaon Jamod. Three unknown persons were following them. One of them was Sardar. They somehow managed to click photographs of Nilesh, Vilas and victim. While Nilesh, Vilas and the victim were coming back on motorcycle, these three unknown persons who were travelling on another motorcycle bearing No. MH-27/BH-0573, intercepted them. The Sardar sought sexual favour from the victim on the ground that he has clicked photographs and will make it viral if she does not fulfill the demand. It is then stated that two unknown persons accompanying sardar had beaten Nilesh and asked him to leave the place. He left the place. Later on, he came to know that the victim has committed suicide.

4. The applicant is one of the two unknown persons. The identity of the applicant is allegedly disclosed by co-accused Himmatsingh sardar. For the reason best known to the investigating officer, the applicant was not subjected to test

identification parade and that therefore Nilesh has not identified the applicant. In fact, none has identified the applicant except the statement of co-accused Himmatsingh sardar, which is not admissible in evidence. That apart, the learned A.P.P. could not point out any act of the applicant that could be said to have abetted the commission of suicide by the victim.

5. In the circumstances, though the learned A.P.P. for non applicant no.1-State and learned counsel for the informant have opposed the application, the opposition is without any substance and that therefore the applicant is entitled to the reliefs as prayed for.

6. When inquired about antecedents, learned counsel for the applicant submits that the applicant has no criminal antecedents. He is residing at the address given since long. The charge-sheet is filed. The charge is not yet framed. It will take time to commence and conclude the trial. No purpose will be served by keeping the applicant behind the bar.

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

8. Resultantly, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Aditya Gajanan Bodade be released on bail in Crime No.416/2022, registered with Police Station, Jalgaon Jamod, Dist. Buldhana for the offences punishable under

Sections 306, 366, 354 (A), 120(B), 341, 323, 506 read with Section 34 of the Indian Penal Code, 1860 on he executing PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(iii) 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.

(iv) The applicant shall maintain law and order.

(v) 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 residence and mobile number(s) till the final disposal of the case.

(vi) 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.

(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.

Fees of Ms. F. Badani, learned appointed advocate for the informant shall be paid as per the rules.

(Anil L. Pansare, J.)

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Digitally signed by YOGESH
ARVIND KAHALE
Signing Date: 03.03.2023
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