

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

Criminal Application (APPA) No. 401 of 2016
in
Criminal Appeal No. 214 of 2016

Nagulal s/o Sewagram Songara (In Jail)
..VS..
State of Mah. Through PSO Gadchiroli.

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

Court's or Judge's orders

Mr. A.K. Sukhdeve, Advocate for applicant.
Mrs. Ketki. Joshi, APP for respondent/State.

CORAM : N.W. SAMBRE, J.
DATED : 13th JULY, 2016.

The appellant came to be convicted in Special POSCO Case No.24/2015 by the Additional Sessions Judge, Gadchiroli vide judgment and order dated 14/03/2016. The appeal against the conviction is already admitted.

Amongst other evidence that is taken into account is Exh. 26, a birth certificate issued by the concerned Panchayat Samiti, Aheri certifying the date of birth of the victim complainant. There is another certificate which is produced by accused persons at Exh. 56 which disputes the sanctity of Exh.26.

It is to be noted that the document Exh. 26 which is formed to be a basis for drawing an inference that the deceased was below the age of 16 years prima facie does not appear to have been proved by examining the official record or the certifying officer. The courts below have relied upon the testimony of the victim and her mother i.e. complainant.

Apart from above, the narration of the incident which has resulted into registration of offence speaks of the

victim travelling with the accused persons from Alapalli to Ujjain by a four-wheeler along with other accused and accomplices. Prima-facie both the above referred pieces of evidence do not repose confidence in the prosecution story.

For the above reasons, in my I opinion, the appellant/applicant is entitled to be released on bail. He be released on furnishing P.R. bond of Rs. 15,000/- with one surety in the like amount.

The accused shall attend the learned trial court once in every three months before the final disposal of the appeal.

JUDGE

Hirekhan