

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

CRIMINAL APPLICATION (BA) NO.885 OF 2016

Vijay s/o Aasaram Bandhane, Katol, Dist. Nagpur (In jail)

-vs-

State of Maharashtra, Thr. PSO, PS Katol, Nagpur.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Yogesh V. Nayyar, Advocate for applicant.

Shri C. A. Lokhande, Addl. PP for non-applicant/State. .

CORAM : P. N. DESHMUKH, J.

DATE : December 13, 2016

Learned counsel for applicant at the outset seeks to amend the application by deleting words appearing in paragraph 8 of application to the effect that "*wife of the applicant is pregnant*". Leave to amend as prayed for is allowed. Amendment be carried out forthwith.

Heard learned counsel for both the sides. This application is for bail in Crime No.147/2016 registered for offence punishable under Sections 363, 366(A), 376 IPC and Sections 4 and 8 of The Protection of Children from Sexual Offences Act, 2012.

Learned counsel for the applicant had submitted that though applicant and the prosecutrix were in love with each other and since their marriage was opposed by their family members, they went to Bhopal and after getting their marriage performed, were staying together and came to arrested on 02/05/2016 in an offence on

the basis of report lodged by mother of prosecutrix. It is submitted that investigation is complete and charge-sheet is filed. In the entire charge-sheet as well as medical report, it is nowhere found that the girl was subjected to sexual intercourse. It is further contended that even otherwise there are two birth certificates of prosecutrix, one issued by Municipal Council, Katol and bonafide certificate issued by school having different dates of birth.

Perused copy of charge-sheet. It appears that on the basis of report lodged by mother of prosecutrix, offence is registered and applicant came to be arrested as were found with the prosecutrix girl at Bhopal. From the medical certificate, though it revealed that there were no traces of sexual violence on the person of prosecutrix, it is material to note that even medical report is silent if prosecutrix was subjected to sexual intercourse or was habitual to sexual intercourse.

Having considered the facts as aforesaid and as investigation is complete, there is no purpose in keeping the applicant behind the bar. It may take some time to conclude the trial. In the circumstances, application is liable to be allowed by imposing conditions of bail. Hence, the following order is passed :

Application is allowed. Applicant be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- with one surety in the like amount in Crime No.147/2016 registered by Police Station, Katol.

Applicant is resident of Katol. Learned counsel for

applicant, on instructions, submits that though prosecutrix is also resident of Katol, she along with her family members have shifted to Nagpur. He further undertakes not to enter the territorial jurisdiction of Katol or Nagpur. In that view of the matter while on bail, applicant shall not enter the territorial jurisdiction of Katol or Nagpur pending the trial except for attending the trial before the Court at Nagpur.

Applicant shall produce his residential address to the concerned Court on the date of appearing and shall update the same in the event of change of address.

Application stands disposed of as allowed in above terms.

JUDGE