

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

CRIMINAL APPLICATION (BA) NO. 890 OF 2015

(NAJJU @ NAJIR KHAN S/O.PIR KHAN PATHAN ...VS..STATE OF MAH., THR. PSO, PS MANGRUL,
DIST. AMRAVATI.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : MARCH 03, 2016.

Heard Shri T.U.Tathod, advocate for the applicant
and Shri M.J.Khan, A.P.P. for the non-applicant.

The applicant is arrested in the crime registered
for the offences punishable under Sections 376(1)(2), 315,
506 of the Indian Penal Code, Sections 4, 6, 8, and 12 of the
Protection of Children from Sexual Offences Act, 2012 and
Section 3(01)(xii) of the Scheduled Castes and the Scheduled
Tribes (Prevention of Atrocities) Act, 1989.

The accusations against the applicant are that he
has repeatedly committed aggravated penetrative sexual
assault on the victim (aged about 15 years) because of which
she delivered a child who died after 4-5 days.

The learned A.P.P. has opposed the application
pointing out that the offence is of serious nature as per
Section 5(2)(j) of the Protection of Children from Sexual
Offences Act, 2012 and if the applicant is found guilty,
punishment of imprisonment for not less than ten years will
have to be imposed and it may extend to imprisonment for
life.

With the assistance of the learned advocate for the applicant and the learned A.P.P., I have gone through the charge-sheet. The ingredients necessary to constitute the offence punishable under Section 3(1)(xii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, *prima-facie* are not made out and the prosecution will have to establish its case against the applicant.

Considering the nature of the incident, nature of the allegations, fact that the charge-sheet is filed and that the non-applicant has not been able to show that the custody of the applicant is necessary for further investigation, in my view, the applicant is entitled to be released on bail.

Hence, the following order :

The applicant, having been arrested in Crime No. 72 of 2015, registered by the non-applicant, he be released on bail on furnishing P.R. bond for Rs.Twenty Thousand and one solvent surety in the like amount.

The applicant shall attend every date of the trial before the Special Court, unless granted exemption by the Special Court. If the applicant fails to attend any date of the trial before the Special Court without seeking exemption from the Sessions Court, this order shall stand recalled.

The application is **allowed** in the above terms.

JUDGE