

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

CRIMINAL APPLICATION (BA) NO.260/2017

Gaurishankar S/o Govindrao Walode

..Vs..

State of Maharashtra, through Police Station Officer Bhadrawati, Distt.
Chandrapur

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

Court's or Judge's orders

Shri Mahesh V. Rai, Adv. for the applicant.
Shri N.R. Patil, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 14.6.2017.

Heard.

The applicant is arrested on 23rd November, 2016 in crime registered against him for the offence punishable under Sections 376(2)(i), 354(A)(1) and 342 of the Indian Penal Code and Sections 3, 4, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 on the accusations that he has sexually assaulted the victim (aged about 14 years). The investigating agency relies on the report of medical examination of the victim in which it is opined that the victim might have been put to forcible sexual intercourse, however, the report of medical examination of the applicant prima facie does not support the claim of the investigating agency that the applicant / accused has forcibly committed sexual intercourse. The investigating agency relies further on the statement of victim, however, there is nothing on record to show that the statement of victim

is recorded as required by Section 24 of the Protection of Children from Sexual Offences Act, 2012. In the statement of Dilip Ramdas Kadwe it is recorded that the coaching class, where the incident is alleged to have occurred, starts at 6 a.m. As per the victim the incident took place after 7.10 a.m. The investigating agency maintains that the coaching class starts from 7 a.m. It is on record that several students attend the coaching class.

The applicant is a government servant working as Talathi and has submitted that he is not involved in any other crime / offence.

Though the crime is heinous in nature, considering the facts on record specially that the non-applicant has not been able to show custody of applicant is required for further investigation, in my view, the applicant is entitled to be released on bail.

The applicant having been arrested in crime No.652/2016 registered by the non-applicant, he be released on bail on furnishing P.R. bond for Rs.20,000/- (Rs. Twenty Thousand) and two solvent sureties in the like amount.

The learned A.P.P. has submitted that the report of D.N.A. is awaited. The investigating agency is granted liberty to apply for cancellation of bail if after receiving the report of D.N.A. it feels it appropriate.

The application is disposed in the above terms.

JUDGE