

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

CRIMINAL APPLICATION (BA) NO.441/2017

Bhiwa @ Bhimrao Ambaji Pachpute

..Vs..

State of Maharashtra, through Police Station Officer, Police Station Pophali, Tq.
Umarkhed, Distt. Yavatmal

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

Court's or Judge's orders

Shri Jay Wankhede, Adv. for the applicant.
Shri N.R. Patil, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 30.6.2017.

Heard.

The applicant is arrested on 14th December, 2016 in crime registered against him for the offence punishable under Sections 376(1),(2)(l)(n) and 506 of the Indian Penal Code on the accusations that he has sexually exploited the prosecutrix (aged about 28 years).

The application is opposed on the ground that the applicant has sexually exploited the prosecutrix who is mentally retarded and is not able to understand anything. The learned A.P.P. has pointed out note-sheets of hospital which contains notes of Assistant Professor of Psychiatrist which are part of charge-sheet (at page No.43 and page No.56) to contend that the prosecutrix is mentally retarded.

The opinion given by the Assistant Professor Psychiatrist (on page No.56 of the charge-sheet) is that

the prosecutrix is clinically found to be having mild mental retardation. The learned Advocate for the applicant has pointed out the statement recorded by the police on 15th December, 2016 (on page No.13 of the charge-sheet) which prima facie shows that the prosecutrix has given proper answers to the questions put to her and the answers given by her are on the lines of the complaint lodged by the prosecutrix.

The investigation is complete and charge-sheet is filed on 10th March, 2017. The applicant claims to be a Labourer and has stated that he is not involved in any other crime / offence. The non-applicant has not been able to show that the custody of the applicant is required for the further investigation.

In the facts of the case, the following order is passed:

The applicant having been arrested in Crime No.192/2016 registered by the non-applicant, he be released on bail on executing P.R. bond for Rs.20,000/- (Rs. Twenty Thousand) and furnishing two solvent sureties in the like amount.

The applicant shall attend the trial before the Sessions Court regularly unless granted exemption by the Sessions Court.

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

JUDGE