

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

**CRIMINAL APPLICATION (BA) NO.746 OF 2017**

**Sanjay Ramdas Khadatkar**

**..VS..**

**The State of Mah., thr. PSO Yeoda, District Amravati**

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

Court's or Judge's Order

Shri Mir Nagman Ali, Counsel for the applicant.

Shri M.J. Khan, Addl.P.P. for the State.

**CORAM : V.M. DESHPANDE, J.**

**DATED : AUGUST 14, 2017.**

This is an application for regular bail.

The applicant is arrested on 25.11.2016 in connection with Crime No.276 of 2016 registered with Yeoda Police Station, District Amravati for the offences punishable under Sections 376(2)(f)(i), 377, and 506 of the Indian Penal Code, 1860 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

As per the first information report, which is lodged on 25.11.2016, the victim states that she lost her mother during her childhood and her father is habituated to drinks and is a drunkard. Therefore, she and her younger brother started residing with her parental aunt by name Smt. Kanta at Wanjari

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Fail, District Yavatmal. In the year 2014, her maternal uncle, that is the present applicant, called her that she should stay at Wadner Gangai for taking education. Therefore, she started residing with her maternal uncle at Wadner Gangai and was taking education in 9<sup>th</sup> Standard. It is the first information report that on 25.11.2016 at 10:00 a.m. in the morning, in an agricultural field, the present applicant committed forcible sexual intercourse with the victim and so also committed the offence against the nature. With this allegation, the offence was registered against the present applicant.

The victim was referred to the District Hospital for her medical examination. The doctor on 25.11.2016 examined the victim medically and found that her hymen was intact and there were no injuries whatsoever in nature on the external body of the victim so also on her private parts. Therefore, the doctor opined that in respect of anal intercourse, she should be referred to the general surgeon for obtaining his opinion. Accordingly, she was referred to the general surgeon for the examination. The report of the said general surgeon shows that there were no external injuries whatsoever in nature on the private part of the victim.

The investigation is over. The investigating officer has already filed the charge-sheet before the Court of law. The

applicant is in jail since 25.11.2016. *Prima facie*, the medical evidence is not supporting the statement of the victim. It is quite clear for reaching to the conclusion as to the sexual assault made on the victim that the clean cheat from the medical officer cannot be the determining factor, if it is noticed that during the course of the Trial the evidence of the prosecutrix/victim is found cogent and it instills confidence in the mind of the Judge. However, at this stage, since the investigation is already over, in my view, further incarceration of the applicant in jail is not warranted. The stringent conditions can be imposed upon the applicant so as to protect the interest of the prosecution. Hence, I pass the following order:

**ORDER**

i) The criminal application is allowed.

ii) Applicant Sanjay Ramdas Khadatkhar be released on bail on his executing a P.R. Bond in the sum of Rs.25,000/- with two solvent sureties of the like amount in connection with Crime No.276 of 2016 registered with Yeoda Police Station, District Amravati for the offences punishable under Sections 376(2)(f)(i), 377, and 506 of the

**Indian Penal Code, 1860 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.**

**iii) The applicant shall attend Yeoda Police Station, District Amravati twice in a month that is on last Thursday and first Sunday of every month in between 3:00 p.m. and 5:00 p.m., till culmination of the Trial.**

**iv) The applicant shall not in any way try to pressurize the victim nor he shall make an attempt to establish contact whatsoever in nature.**

**v) With this, the criminal application is allowed and disposed of.**

**JUDGE**

**!! BRW !!**

**...../-**