

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

CRIMINAL APPLICATION (BA) NO.822/2017

HOMDEO S/O UTTAM PADOLE

..VS..

THE STATE OF MAHARASHTRA THR. ITS P.S.O., NAGPUR (GRAMIN
BUTIBORI), TAHSIL AND DIST. NAGPUR

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

Court's or Judge's Order

.....
Shri V.D. Muley, Counsel for the applicant.

Shri T.A. Mirza, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : SEPTEMBER 18, 2017.

1. The applicant is arrested in connection with Crime No.908 of 2016 registered with Police Station Officer Nagpur (Gramin Butibori), District Nagpur for the offences punishable under Sections 377 and 506 read with Section 34 of the Indian Penal Code and Section 3(2)(v) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 6, 8, 17, and 21 of the Protection of Children from Sexual Offences Act, 2012.

2. According to learned counsel for the applicant, the investigation is already over and the applicant is behind bars. He submits that the applicant is already suspended from the service and he will not enter even the jurisdiction of the Nagpur District except on the date of the Trial. He submits that there is no necessity now for keeping the applicant in jail.

3. Merely because the charge-sheet is filed, that itself cannot be the ground for releasing the applicant on bail. While releasing the applicant on bail, the Court has to see the nature of accusations, its seriousness, and the impact on the society. The filing of the charge-sheet is one of consideration only.

4. The applicant was working as a security guard at Holycross Ashram School, Butibori, Nagpur. The victim, aged about 10 years boy, was taking education in the said school and was residing in the hostel of the said school. The applicant was given duty to guard the said hostel. Taking advantage of his position as a security guard, the applicant has committed heinous act on the boy of aged about 10 years.

5. The statement of the boy shows that the applicant used to repeat his heinous acts and used to extend threats to the boy.

6. The first information report is lodged by the father of the victim who is resident of Deori, District Gondia. He had been to Butibori to meet his on 19.12.106. On the said day, it appears that the boy has gathered courage, when he saw his father, and has disclosed the fact to his father. Thereafter, the offence is registered.

7. It is pointed out to me by the State by filing the reply that the applicant is in habit of committing such offences. The applicant is also accused in Crime Nos.909 and 91 of 2016 registered with the same police station in respect of other two

boys and girls on whom the applicant has committed sexual atrocity.

8. Learned counsel for the applicant submits that in one of cases the applicant has granted bail.

9. It appears that the applicant is a man of pervert mind. From the reply it can be gathered that the applicant has inclination to commit such type of offences. Therefore, merely because he is suspended from the service and as per the submission of learned counsel for the applicant that he will reside at Bhandara, in my view, that is not sufficient since the applicant is having inclination to commit offences. The apprehension, as expressed by learned Additional Public Prosecutor Shri T.A. Mirza for the State that the repetition of such type of offences at Bhandara, cannot be ruled out.

10. Further, if such persons, having pervert mind, are released on bail, in my view, it will give very wrong signal to the society. The students and the minors have to be protected not only by their parents, police machinery but also by the Courts.

11. In that view of the matter, I see no reason to accept any of submissions made by learned counsel for the applicant. Hence, the criminal application is rejected.

JUDGE

!! BRW !!

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