

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

CRIMINAL APPLICATION (BA) NO.863/2017

Devkaran Hirdelal Uikey ..vs.. State of Maharashtra through PSO P.S. Deoli,
Dist. Gondia.

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

Court's or Judge's orders.

Mr. S. Borkar, Advocate for applicant.
Mr. J. Y. Ghurde, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 7, 2017

This is an application for bail. Heard
Mr. Shashikant Borkar, Advocate for applicant and Mr. J.
Y. Ghurde, A.P.P. for non applicant-State.

The applicant is arrested in connection with
Crime No.49/2017 registered with Police Station, Deori,
Dist. Gondia for an offence punishable under Section
376 (2) (i), 363, 366 (a) and Section 506 of the Indian
Penal Code and Sections 4, 6, 8 and 12 of the Protection
of Children From Sexual Offences Act, 2012.

According to the learned counsel for the
applicant, the charge-sheet is already filed and therefore
further custodial presence of the applicant is not
required. It is further submitted that on the date of
incident, the applicant was discharging his duties as
Peon at a far away place. He therefore submits that the
application be considered favourably.

Per contra, the learned A.P.P. for the State resisted the application on the ground that the applicant has committed rape on the minor girl and there is eye witness in the prosecution case. He has also submitted that there is no delay in reporting the matter.

From the material which is placed on record, it is clear that the prosecutrix is aged about 15 years. The FIR is lodged by the victim's father. Statement of the victim is also recorded. She, in her statement, has in clear words attributed that it is the applicant who drag her from the varandha of her house, took her to the jungle and there he committed rape on her. In the prosecution case, there is an eye witness whose statement is at page no. 90 of the compilation. His name is Santaram Chaitram Futania. His statement reveals that when he had been to the place of occurrence to answer the nature's call, that time he heard cry of a lady and that invited his attention to the said place. In the torch light he saw that the present applicant was committing the heinous act on the girl.

Merely because the charge-sheet is filed that cannot be the reason to release the applicant on bail. At the most, it will be one of the consideration for deciding the application for bail. However, the Court has to see the nature of accusation. Insofar as the other submission in respect of the present applicant that he was discharging his duties at a far away place is concerned,

that cannot be considered at this stage since this will have to be proved at the time of evidence.

Looking to the age of the victim and the nature of allegations, I see no reason to release the applicant on bail especially when he is facing serious accusation of committing rape on a minor girl. The application is therefore rejected.

JUDGE

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