

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No.945 of 2017
[Swapnil @ Chintu Devanand Jawade Vs. State of Mah., Sitabuldi PS, Nagpur]

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

Court's or Judge's orders

Mr. R. D. Thakur, Adv., for the applicant.
Ms. Kalyani Deshpande, APP for respondent.

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CORAM : A. S. CHANDURKAR, J.

DATE : 11th October, 2017

The applicant who has been arrested pursuant to Crime No. 153/2017 registered at Sitabuldi Police Station, Nagpur, for offences punishable under Sections 363, 366-A, 376-D, 506-B and 120-B of the Indian Penal Code read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 [for short, "the said Act"], seeks his release on bail.

As per the First Information Report lodged on 22nd April, 2017, the applicant along with his friends are alleged to have physically assaulted the complainant - Sharda. After the crime was registered, the applicant was arrested on the next day during the course of investigation. On completion of investigation, charge-

sheet has been filed.

It is submitted on behalf of the applicant that he has been falsely implicated and there is no material on record against the applicant. Reference is made to statements of the friends of the complainant to indicate that the report as lodged cannot be believed. The learned counsel has referred to orders passed in the case of two other accused to submit that he is entitled for bail on parity.

The application is opposed by the learned Addl. Public Prosecution. She has referred to the material collected by the prosecution which forms part of the charge-sheet. It is submitted that the applicant was identified by the victim. The Medical Report indicates that the victim was below the age of eighteen years and hence a child as per the said Act. It is, therefore, submitted that the applicant is not entitled for such release.

I have perused the First Information Report as well as the statements along with the charge-sheet. I have also perused the medical papers. The age of the victim is shown to be sixteen years. The applicant has been arrested on the next day after the crime was registered. He has been identified in the Test Identification Parade by the victim. The orders relied upon in so far as other accused are concerned record a

finding that those accused were not identified by the victim. Hence, the parity would not be applicable in so far as present applicant is concerned.

Considering the material available against the applicant, I am not inclined to exercise discretion in his favour at this stage. Liberty is granted to the applicant to apply afresh if the trial does not commence within four months from today.

The application, therefore, stands rejected.

Judge

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