

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

CRIMINAL APPLICATION (BA) NO.1077 OF 2017

Pravin Subodh Sarkar, R/o Chinchgaon, Tq. Brahmapur, Dist. Chandrapur

-vs-

State of Maharashtra, Thr. PSO, PS Brahmapuri, Dist. Chandrapur

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

Court's or Judge's Orders.

Shri S. V. Sirpurkar, Advocate for applicant.

Shri S. M. Ghodeswar, APP for non-applicant/State.

CORAM : A.S.CHANDURKAR, J.

DATE : November 20, 2017

The applicant who has been arrested on 04/10/2017 in connection with Crime No.961/17 registered at Police Station Brahmapuri, Dist. Chandrapur for the offence punishable under Sections 354(a)(1), 452, 323, 506 of the Indian Penal Code read with Section 8 of Protection of Children from Sexual Offences Act, 2012 seeks his release on bail.

As per the First Information Report dated 04/10/2017 the informant who is aged about 17 years and 9 months has stated that on 30/09/2017 when she was alone at home at about 12.30 pm when she was doing household work, a person entered her house with his face covered. He caught hold of the informant's hand. When she started shouting the said person threatened the informant and caught her neck. She fell down in that process. However as some vehicle arrived at the door, the said person ran away. After the informant's father came home, a report was lodged on 04/10/2017. The applicant was arrested on the same day.

It is submitted on behalf of the applicant that there is delay of almost four days in lodging the report. Though offence has been registered under Section 8 of the Protection of Children from Sexual Offences Act, 2012 the report in question does not refer to any sexual assault on the informant. Other offences alleged are bailable in nature. It is therefore submitted that a case for applicant's release on bail is made out.

The application is opposed by the learned Additional Public Prosecutor by relying upon the reply. It is submitted that the delay has been properly explained as the informant's father had gone out of station. The clothes of the informant were found slightly torn in the process. As the victim was below the age of 18 years, offence under Section 8 of the Act of 2012 has been registered. If released, there is likelihood of the applicant threatening the victim.

Perused the First Information Report as well as other statements recorded. Perusal of the First Information Report as well the subsequent statement of the victim indicates that prima facie the ingredients of Section 7 of the Act of 2012 appear to be missing. It is alleged that the applicant has pressed the neck of the victim resulting in abrasions. Considering the nature of allegations and in absence of any sexual assault on the victim, a case for his release on bail is made out subject to imposing conditions.

Accordingly, the applicant Pravin Subodh Sarkar who has been arrested on 04/10/2017 in connection with Crime No.961/17 registered at Police Station Brahmapuri, Dist. Chandrapur for the offence punishable under Sections 354(a) (1), 452, 323, 506 of the Indian Penal Code read with Section 8 of Protection of Children from Sexual Offences Act, 2012 is directed to be released on bail on furnishing PR Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.

The applicant after his release shall not enter the limits of Brahmapuri Tahsil till conclusion of the trial. He shall however do so only for appearing before the Investigating Officer as and when directed. He shall furnish his temporary residential address to the Investigating Officer and shall co-operate in completion of the trial. He shall not influence the prosecution witnesses.

The observations made in this order are only for deciding this application which is allowed and disposed of.

JUDGE