

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

CRIMINAL APPLICATION (BA) NO.38/2018

Ajay @ Harikumar s/o Venkateshwarrao Enaganti ..vs.. State of
Maharashtra through PSO P.S. Asarali, Tq. Sironcha, Dist. Gadchiroli.

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

Court's or Judge's orders.

Mr. M. B. Naidu, Advocate for applicant.
Mr. A. Madiwale, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 31, 2018

1. Heard Mr. Naidu, Advocate for applicant and
Mr. Madiwale, A.P.P. for non applicant-State.

2. This is an application for grant of bail since the
applicant is arrested in connection with Crime
No.57/2017 registered with Police Station Asarali, Tq.
Sironcha, Dist. Gadchiroli, for an offence punishable
under Section 376 read with Section 34 of the Indian
Penal Code, Sections 4 and 6 of the Protection of Children
from Sexual Offences Act and Sections 9 and 10 of the
Prevention of Child Marriage Act.

3. The reply filed by the learned A.P.P. shows
that initially the mother of the victim performed her
marriage with accused no.2-Mahendra on 07.05.2017.
There are no allegations whatsoever in nature against the
present applicant in respect of the said marriage. The
reply shows that after residing for a day with the accused

no.2, the victim came to the house of her mother who is accused no.3 in the crime. Thereafter her mother assaulted the victim and hence the victim approached to the police station where an understanding was given to the accused no.3 by police officials. According to the reply, the victim was not ready to go to the house of her mother and therefore the mother of the present applicant took the victim with her and she stayed in her house. According to the prosecution case, in the FIR itself, the victim is stating that she was in love with the present applicant and the physical relations were established in between them. According to the reply, thereafter the FIR is lodged. The investigation papers which contain medical papers of the victim shows that there were no injuries on the person of the victim. Even her hymen is also intact.

4. In view of the nature of accusations made against the present applicant and in view of the fact private part of the victim is intact, in my view, merely because the charge-sheet is not filed that cannot be the reason to deny the relief of bail to the applicant.

5. In view of above, following order is passed.

ORDER

- (i) Criminal Application No. 38/2018 is allowed.
- (ii) Applicant-Ajay alias Harikumar s/o Venkateshwarrao Enaganti be released on bail in connection with Crime No.57/2017 registered with Police

Station Asarali, Tq. Sironcha, Dist. Gadchiroli, for an offence punishable under Section 376 read with Section 34 of the Indian Penal Code, Sections 4 and 6 of the Protection of Children from Sexual Offences Act and Sections 9 and 10 of the Prevention of Child Marriage Act on he executing P.R. Bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.

(iii) The applicant shall surrender his Passport with the investigating officer before executing the bail bonds. The Passport so deposited by the applicant shall not be returned to him in any case unless there are orders from this Court.

(iv) The applicant shall attend Police Station, Asarali once in a month i.e. in the third week of every month till the filing of the charge-sheet and shall remain with the investigating officer between 11.00 a.m. to 02.00 p.m.

(v) The applicant shall not tamper with the prosecution evidence and also shall not try to influence the prosecution witnesses.

(vi) The observations made in this order are prima facie in nature and they are made only for the purpose of deciding the present application for bail. The trial Court shall not get influenced by any of the observations made in the order.

The application is disposed of accordingly.

JUDGE