

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

CRIMINAL APPLICATION (BA) NO.133/2018

Durgaprasad Shamlal Choudhary ..vs.. State of Maharashtra through PSO
P.S. Tirora, Tq. Tirora, 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. N. D. Thombre, Advocate for applicant.
Mr. M. K. Pathan, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : FEBRUARY 23, 2018

1. Heard Mr. N. D. Thombre, Advocate for applicant and Mr. M. K. Pathan, A.P.P. for non applicant-State.

2. The applicant is arrested in connection with Crime No.358/2017 registered with Police Station, Tirora, Tq. Tirora, Dist. Gondia for an offence punishable under Sections 376 (D) of the Indian Penal Code read with Section 5 and 6 of the Protection of Children from Sexual Offences Act and Section 3 (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. The FIR is lodged by the victim herself, who is aged about 17 years. As per her evidence, accused no.1-Jay Shende first committed forcible sexual intercourse with her and thereafter the present applicant and other co-accused followed her and took her to some unknown place and committed sexual intercourse with her.

4. The investigation is over. The charge-sheet is already filed. This Court had already released the co-accused Sachin on bail considering the material in the charge-sheet

and that there is a delay of four days in lodging the FIR at Tiroda and two days in lodging the FIR at Durg. Also, the victim is not a rustic girl.

5. In that view of the matter, in absence of any plausible explanation for lodging the FIR so late and since investigation is over, further custodial presence of the applicant is not necessary. Hence, following order is passed.

ORDER

- (i) Criminal Application No.133/2018 is allowed.
- (ii) Applicant-Durgaprasad Shamlal Choudhary be released on bail in connection with Crime No. 358/2017 registered with Police Station, Tirora, Tq. Tirora, Dist. Gondia for an offence punishable under Sections 376 (D) of the Indian Penal Code read with Section 5 and 6 of the Protection of Children from Sexual Offences Act and Section 3 (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on he executing P.R. Bond in the sum of Rs.25,000/- with with two solvent sureties in the like amount.
- (iii) The applicant shall attend Police Station, Tiroda once in a month i.e. on last Sunday of each month and shall be with the investigating officer from 03.00 p.m. to 05.00 p.m. till culmination of the trial.
- (iv) The applicant shall not extend any types of threats either to the victim or to the prosecution witnesses.

The application is disposed of.

JUDGE