

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

Criminal Application [BA] No.323 of 2018

Sanjay Wamanrao Choudhari

vs.

State of Maharashtra, through P.S.O. Ram Nagar, Wardha

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

Court's or Judge's Orders

*Shri D.R. Bhoyar, Advocate for the Applicant.
 Ms. Ritu Kalia, A.P.P. for the Non-Applicant-State.*

CORAM : S.B. SHUKRE, J.
DATE : 24th APRIL, 2018.

Heard.

Perused the reply of the prosecution and the charge-sheet.

The incident is stated to have taken place at about 03:30 p.m. of 10/09/2016 in the house of the applicant. The incident comprises certain acts allegedly committed by this applicant against the victim of crime, aged about 5 years, who is a neighbour of this applicant. The specific allegation is that this applicant picked up the victim in his lap and taking her inside his house and removing her clothes as well as his underwear, this applicant established a contact of his penis with the private part of the victim. The contact has been alleged to be not of penetrative nature, but of only in the nature of a touch of the penis with the private part of the victim. The F.I.R. on these allegations interestingly was filed on 06/10/2016. Apparently, I could not find any explanation having been given for such belated filing of the F.I.R. by the mother of the victim. It appears that the victim was

taken to the Child Welfare Committee much later after 10/09/2016, before whom the victim is stated to have revealed these acts committed against her by the applicant. There is another interesting fact. The father of the child refused his permission for medical examination of the child victim. Apparently, I could not find any reason in the charge-sheet that has been filed in this case even for such refusal.

There is one more interesting fact. This is in respect of lodging of F.I.R. on 10/09/2016 by the mother of the child against this applicant and this F.I.R. relates to same incident which took place in the afternoon of 10/09/2016 in the house of this applicant. The time of the incident is also same and it is of 03:30 p.m. In this F.I.R., it is alleged that the child was playing and while playing so, she happened to enter the house of this applicant, but did not return for a considerable period of time. So, the mother of the child went inside the house of the applicant and found that her daughter was present there and this applicant was drunk. She has alleged in the F.I.R. that this applicant hurled abuses at the complainant and thereupon the complainant or the mother of the child inquired with the child as to, whether or not this applicant indulged in any inappropriate behaviour with her, where upon she was told by her daughter or the child that this applicant did exhibit no such behaviour towards her. On the basis of this F.I.R., a non-cognizable case was registered against the applicant.

The applicant is in jail since 26th October, 2016. There is no progress in the trial and as stated by the learned Counsel for the applicant that till date no

charge has been framed by the trial Court.

In the facts and circumstances discussed above, I am of the view that this is a fit case for grant of bail.

The application is allowed and it is directed that the applicant be released on bail on his furnishing a P.R. Bond of Rs.30,000/- together with one solvent surety in the like sum on the following conditions :

- i. The applicant shall not reside within the territorial limits of Pipri (Meghe) Village Panchayat, a satellite town of city of Wardha and shall stay at least 10 kms. away from the village Pipri (Meghe), till the conclusion of the trial.
- ii. The applicant shall furnish his new address along with telephone/mobile numbers to the Investigating Officer as well as to the Court within a week's time after his release on bail.
- iii. The applicant shall regularly attend the trial Court on the dates fixed in the trial of the case against him.
- iv. The applicant shall co-operate with the trial Court in expeditious disposal of the case
- v. The applicant shall not tamper with the prosecution witnesses in any manner.

The application is disposed of as such.

JUDGE