

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

CRIMINAL APPLICATION (BA) NO.461 OF 2018

(Vishal s/o Dilip Ingole ..vs.. State of Maharashtra through PSO, PS Pandharkawada)

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

Court's or Judge's orders

Shri M.I. Dhattrak, Counsel for the applicant,
Shri N.B. Jawade, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 24-07-2018

The applicant is seeking enlargement on bail in Crime 403/2017 for offences punishable under Section 376(2)(n)(i) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. The offence is registered at Police Station Pandharkawada on the basis of complaint of the mother of the victim. The mother of the victim noticed that her minor daughter aged 14½ year was pregnant. The mother of the minor victim enquired and was told by the minor that the applicant was responsible for the pregnancy. The material on record reveals that the minor was taken to the Hospital of Dr.Mayee for abortion. The said hospital forwarded the information to Police Station Officer Wadgaon Road. The offence was registered and the investigation was transferred to Police Station Pandharkawada on 02-6-2017.

3. The submission is that since the charge-sheet is filed, further incarceration of the applicant would in a sense be pretrial punishment. The further submission is that even *prima facie* the material on record is not cogent enough to link the applicant with the pregnancy. In rebuttal, the learned Additional Public Prosecutor Shri N.B. Jawade would submit that at this stage there is no reason why the version of the child victim should not be believed. The offence is serious and when the sexual contact was established, the child was not more than 14 year old. The birth certificate issued under the Birth and Death Registration Act is obtained. The material on record would show that the applicant accompanied the child victim and her mother to the hospital to Dr. Mayee for aborting the foetus, is the submission.

4. Perused the charge-sheet. The offence is indeed heinous and the child victim was hardly 14 year old when she was subjected to intercourse. *Prima facie* there is ample material on record to connect the applicant with the crime.

5. This is not a case for grant of bail. The application is rejected.

6. However, since the applicant, who is relatively young, is in custody since 06-6-2017, the learned trial Court is directed to frame charge, if not already framed,

and to conclude the trial within nine months from the date this order is communicated.

JUDGE

adgokar