

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

CRIMINAL APPLICATION (BA) NO.531 OF 2018

(Jagdish s/o Kanhaiyalal Bairwa Vs. State of Maharashtra thr. PSO PS Sakkardhara,
Nagpur)

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

Court's or Judge's orders.

Shri S.N. Bawangade, Advocate for Applicant.
Shri T.A. Mirza, APP for Respondent-State.

CORAM: ROHIT B. DEO, J.

DATE: 29th JUNE, 2018.

The applicant is in custody since 14.08.2014 in connection with Crime 238/2017 registered at Police Station Sakkardhara, Nagpur for offence punishable under sections 363, 366, 344, 376(2)(1) of the Indian Penal Code read with section 3, 4, 5 (L) and 6 of the Protection of Children From Sexual Offences Act.

The victim is alleged to be a minor as on the date of the incident. However, even according to the prosecution the victim was aged 17 years and 6 months.

Prima facie, from the material on record the possibility that the complainant and the victim were in relationship and that she left the custody of her father willingly, is a real possibility. Whether sexual relationship, was consensual and if consensual the consent is vitiated by the fact that the victim was a child is a matter to be determined after the evidence is recorded in the trial court.

At this stage, I do not see any reason why the applicant should languish in custody.

The application is allowed.

The applicant be released on furnishing personal bond of Rs.15,000/- with a solvent surety of the like amount.

The applicant shall not tamper with the evidence nor shall applicant directly or indirectly attempt to influence the witnesses in any manner.

The application is disposed of accordingly.

JUDGE