

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

CRIMINAL APPLICATION (BA) NO.589 OF 2018

(Chandan Kundan Jhambe Vs. State of Mah thr. PSO PS Chandrapur City, Dist.
Chandrapur)

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

Court's or Judge's orders.

Shri A.A. Dhawas, Advocate for Applicant.
Shri S.S. Doifode, APP for Respondent-State.

CORAM: ROHIT B. DEO, J.

DATE: 13th JULY, 2018.

The applicant is in custody since 24.12.2017 in connection with Crime 1681/2017 registered with the Police Station Chandrapur City, District Chandrapur for offence punishable under sections 376 (2)(f)(i)(j) and 506 of the Indian Penal Code and section 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

The victim is the niece of the applicant. She lodged report on 23.12.2017 alleging that the applicant sexually molested her on 29.11.2017.

Perusal of the report, the medical certificate and the other material on record would *prima facie* render doubtful whether the provisions of Section 376 (2)(f)(i)(j) and 506 of the Indian Penal Code and section 4 of the POCSO Act are attracted. There is no allegation nor is there any evidence of any penetration whatsoever. The allegations, even if taken at face value, would make out

an offence under section 8 of the POCSO Act.

However, the applicant is in custody since last more than six months. Nothing is brought to my notice to suggest that the applicant is likely to flee away from the course of justice. Ultimately, the detention cannot be a pre-trial punishment. In this view of the matter, I am inclined to allow the application.

The application is allowed.

- [i] The applicant be released on bail on his furnishing a personal bond of Rs.15,000/- with a solvent surety of the like amount.
- [ii] The applicant shall not contact the victim or any other member of her family.
- [iii] The applicant shall not tamper with the evidence nor shall applicant directly or indirectly attempt to influence the witnesses in any manner.

JUDGE