

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

CRIMINAL APPLICATION (BA) NO.636 OF 2018

(Ajay s/o Vinod Manwar ..vs.. State of Maharashtra, through PSO, PS Mangarulpur)

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

Court's or Judge's orders

Shri A.P. Tathod, Counsel for the applicant,
Shri C.A. Lokhande, Addl.P.P. for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 27-07-2018

The applicant, who is of a relatively tender age of 19 years, is in custody since 08-1-2018 in connection with Crime 9/2018 registered with Mangrulpur Police Station against the applicant and three others for offences punishable under Sections 341, 342, 376(2), 376-D, 323, 506 and 120-B of the Indian Penal Code and Sections 3(a), (4), 5(l) and 5(g) of the Protection of Children from Sexual Offences Act.

2. Crime 9/2018 is registered on the basis of complaint dated 07-1-2018 lodged by the minor prosecutrix. The accusation against the applicant is that on 30-12-2017 she was sexually assaulted by the applicant. The role attributed to the mother and sister of the applicant, who are co-accused, is that when the minor prosecutrix went to the house of the applicant, the co-accused went out of the house and locked the door and abetted the commission of the crime.

3. The submission of the learned Counsel Shri A.P. Tathod is that apart from the inherent improbability of the accusation, the accusation is belied by the medical evidence. No signs of recent sexual intercourse or violence suggesting forcible sexual intercourse are noticed in the medical examination. The tear to the hymen is not described with clarity, but then, the injury to hymen is not described as recent either.

4. The learned Additional Public Prosecutor Shri C.A. Lokhande would submit that the accusation is serious and no case for grant of bail is made out. *Prima facie*, it does appear that the version of the minor prosecutrix is belied by the medical report. This of course is a *prima facie* observation and ultimately it is for the trial Court to come to appropriate conclusion after evaluating the evidence on record.

5. Considering the age of the applicant and the material on record, I am inclined to allow the application.

6. The application is allowed.

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

8. The applicant shall attend the dates of hearing and shall cooperate with the expeditious disposal of the trial.

9. The applicant shall not tamper with the prosecution evidence nor shall attempt to influence the witnesses in any manner.

JUDGE

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