

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (BA) No.406 of 2019
(Ishwar Vinod Virshid .vs. State of Maharashtra through PSO PS Buldhana
City, Buldhana.)

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

Court's or Judge's orders.

Mr. S.U. Bhuyar, Advocate for Applicant
Mr. J.Y. Ghurde, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : July 31, 2019.

The applicant has approached this Court seeking bail as he stood arrested on 31.01.2019 in connection with first information report (FIR) registered on the same day pertaining to offences under Sections 377, 504, 506 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The allegation against the applicant has been made on the basis of a complaint submitted by the mother of the victim. As per the report lodged by the complainant, on 26.01.2019, the applicant took the victim, a 12 years old boy, to his home and committed the said act leading to registration of offences as aforesaid. The investigation in the present case was completed and the charge-sheet has been filed. There are 19 witnesses to be examined by the prosecution.

3. The learned counsel for the applicant submitted that the FIR was clearly delayed and that even the medical examination of the victim did not

reveal any significant fact to support the allegation made against the applicant. It was further submitted that the present case has been lodged against the applicant due to enmity arising out of an incident that took place concerning a cricket match. In this regard, the applicant has invited attention of this Court to a non-cognizable report registered at the behest of the mother against the cousin of the victim.

4. The learned APP has opposed the present application, pointing out that the allegations in the present case were serious involving a sexual assault on a 12 years old minor boy.

5. Heard the learned counsel for the parties and perused the material on record. Insofar as delay in registration of FIR is concerned, the material on record shows that the victim who is a 12 years old boy, did not immediately report the incident to his parents and it was after few days when he was going to the school that he finally gathered courage to inform his parents, leading to registration of the said FIR. Considering the age of the victim and the manner in which the incident is said to have taken place, it appears that merely because there has been delay in registration of FIR, it cannot be said that the present applicant is entitled to grant of bail.

6. The aspect of enmity leading to false implication as indicated by the learned counsel for the applicant, cannot also be accepted because the perusal of the non-cognizable report in the present case shows that it stood registered in the Police Station at 19.23 hours on 31.01.2019, which was after the FIR against

the applicant already stood registered on the same day at 16.32 hours. This indicates that the whole theory of enmity and false implication may be an after thought, although all these aspects would be thrashed out during the course of trial. In view of the above, this Court is of the opinion that the present application cannot be granted. Accordingly, it is dismissed.

7. It is informed that there are 19 witnesses to be examined in the present case. Since the applicant has been behind bars from 31.01.2019, the trial Court is directed to expedite the proceedings and to ensure that the proceedings are completed and judgment is rendered in the present case within six months from today.

JUDGE

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