

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

Criminal Application (BA) No.444 of 2019
(Sameer Shah Salim Shah .vs. State of Maharashtra through PSO PS
Murtizapur (City), Dist. Akola.)

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

Mr. Mir Nagman Ali, Advocate for Applicant.
Mr. M.J. Khan, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 25, 2019.

The applicant herein is alleged to have committed offences under Sections 354-B of the IPC and Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act, 2012. The incident is said to have occurred on 07.02.2019 when the complainant, grandmother of the victim, found that the victim was coming out of the house of the applicant complaining of the act as alleged in the oral report leading to the registration of FIR. The applicant was arrested on the same day i.e. 07.02.2019 and he has been behind bars since then.

2. Investigation in the present case was completed and the charge-sheet was filed on 08.04.2019. It is the contention of the applicant that the material on record does not indicate that any such incident had actually occurred and that the applicant was involved therein. It is also indicated that the report lodged against the applicant could be the result of

enmity since it is contended that there had been a quarrel between the son of the complainant and the applicant herein. It is pointed out that the applicant is young boy of 18 years of age and that it would be in the interest of justice that conditional bail is granted.

3. On the other hand, the learned APP has strenuously opposed the present application, inviting the attention of this Court to the medical report of the victim, which indicates that upon examination, it was found that there was redness on the labia majora of the victim. The material on record also shows that oil was found on the undergarment of the victim, thereby supporting the nature of allegations made against the applicant in the present case.

4. The material on record indicates that the applicant is alleged to have committed serious offence against a minor victim, who is aged about 3 years. It is evident from the medical report on record that there was redness found on the aforesaid part of the victim's body although no major injury was indicated. But, the very nature of allegations against the applicant were not regarding any penetration in the present case, but of the applicant having applied oil on the private part of the minor victim with whom he was allegedly found to be in a naked condition. The presence of the oil on the private part of the victim certainly indicates that there is some substance in the specific allegation made against the applicant.

5. Insofar as the question of false implication is concerned, presently, other than the statement made by the applicant in that regard, there appears to be no material to support such a contention. It is also pointed out by the learned APP that there are 12 witnesses in the present case and that, therefore, the trial could be completed in an expedited manner.

6. In view of the above, the application is rejected. The trial Court is directed to complete the proceedings of the trial and to render judgment in the matter as expeditiously as possible and in any case within a period of six months from today. It is made clear that if the judgment of the trial Court upon completion of the trial is not rendered within the said time limit, the applicant will be at liberty to renew his prayer for grant of bail.

JUDGE