

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

Criminal Application (BA) No. 458 of 2019

Mangesh Waghurwagh and one Anr.

Vs.

State Through P.S. Barshitakli

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

Court's or Judge's orders

Mr. U.J. Deshpande & Mr. Rohit Bonwadkar, Advocate for applicants.
Mr. J.Y. Ghurde, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JUNE 26, 2019

The applicants herein are accused of having committed offences under Sections 452, 354-D, 323 R/w 34 of the Indian Penal Code and Sections 7, 8, 11 & 12 of the Protection of Children from Sexual Offences Act. The case against the applicants is that the applicant No.2 on 07/1/2019 had followed the complainant / victim, who is 16 years old girl and entered her house. It is alleged that the applicant No.2 held both hands of the complainant. When her father entered the house and sought to intervene in the matter, the applicant No.2 and his brother the applicant No.1 assaulted the father of the complainant, thereby committing the aforesaid offences.

2. The applicant No.2 was arrested on 01/02/2019 and the applicant No.1 was arrested on

27/02/2019 and they have been behind bars since then. It is pointed out by the learned counsel for the applicants that investigation was completed and chargesheet was filed on 21/03/2019. It is submitted that since the investigation is now complete, the applicants deserve to be enlarged on bail. In the bail application it is specifically pleaded that the applicants have been falsely implicated because the father of the complainant had a grudge against the applicant No.1.

3. The learned APP has opposed grant of relief in the present application, looking to the nature of the allegation made against the applicants and the fact that the complainant herein is a 16 years old girl.

4. Heard learned Advocates for the rival parties and perused the material placed on record. Although, a contention is raised on behalf of the applicants that they are falsely implicated due to previous enmity, other than the statement made in the application, there is no material on record to support such contention. But, it is also a fact that investigation in the present case is complete and chargesheet was filed on 21/03/2019. The nature of allegations made in the application are definitely of a serious nature, but, since a contention is specifically raised regarding false implication, this Court is of the opinion that since chargesheet is already filed, the applicants can be granted relief by imposing specific conditions.

5. In view of the above, the present application is allowed and the applicants are directed to be released on bail on furnishing PR bond of Rs.25,000/- each and surety of like amount on the following conditions.

- a) The applicants shall not enter Navin Wasti, Grampanchyat Sahit Tah. Barshitakli Dist. Akola, during pendency of the trial.
- b) The applicants shall attend the proceedings before the Trial Court on each and every date.
- c) The applicants shall not influence the witnesses in any manner.
- d) The applicants shall inform the Trial Court about their place of residence during pendency of the trial.

6. Needless to say that in case of violation of any of the conditions by the applicants, bail granted to them shall stand cancelled.

7. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicants.

JUDGE