

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

Criminal Application (BA) No.549 of 2019
(Ramesh Pundlikrao Rajane .vs. State of Maharashtra through PSO PS
Tahsil, Nagpur.)

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

Mr. S.A. Dubey, Advocate for Applicant
Mr. H.R. Dhumale, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : August 02, 2019.

The applicant has approached this Court seeking bail as he was arrested on 06.06.2018 in pursuance of first information report (FIR) registered on the same day for offences under Sections 354-A of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The allegation against the applicant is that while he was working as a Security Guard at a temple, he allegedly touched the daughter of the complainant inappropriately, which was seen by the complainant himself. On this basis, the aforesaid offences stood registered. The investigation in the present case was completed and the charge-sheet was filed on 03.08.2018.

3. The learned counsel for the applicant pointed out the description of the incident given by the prosecutrix as well the complainant is varying in different statements given by them and that the applicant is a 66 years old person, who has remained in

jail since 06.06.2018. On this basis, it is submitted that the present application deserves to be allowed.

4. The learned APP has opposed grant of relief in the present application. The reply filed by the learned APP is taken on record. It is submitted that since the prosecutrix in the present case was only about 6 years and few months old at the time of the incident, there is every possibility of the victim being threatened and influenced by the applicant if he is enlarged on bail. The learned APP has further pointed out that there does not appear to be any material to show that there was enmity between the applicant and the complainant for any false implication in the present case.

5. Heard the learned counsel for the parties and perused the material on record. A perusal of the statement leading to registration of FIR in the present case compared to the statement given by the victim after about two days from the date of the incident and further compared with statement given by the complainant himself about five days from the date of the incident, shows that there is indeed some variance in the description of the incident. The perusal of the medical examination report of the victim does not show any injury suffered on the private part of the victim. The fact that the applicant is aged about 66 years old, is not denied by the non-applicant/State and record shows that he has been behind bars for more than one year i.e. from 06.06.2018.

6. In view of the aforesaid circumstances, the present application deserves to be allowed, although subject to stringent conditions, to address the anxiety

expressed on behalf of the non-applicant/State.

7. Accordingly, the present application is allowed and the applicant is directed to be released on bail in Crime No. 285 of 2018 registered in Police Station Tahsil, district Nagpur, on the following conditions:-

- a) The applicant shall furnish P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand) and a surety in the like amount.
- b) The applicant shall not enter jurisdiction of Police Station Tahsil, district Nagpur, during the pendency of the trial.
- c) The applicant shall report on every second and fourth Sunday of month before Police Station Panchpaoli, district Nagpur, during pendency of the trial.
- d) The applicant shall attend the proceedings before the trial Court on each and every date.
- e) The applicant shall not influence witnesses and he shall not try to contact either the complainant or the prosecutrix in any manner.

8. Needless to say that violation of any of the conditions noted above, may lead to cancellation of bail granted to the applicant. It is clarified that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE