

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

CRIMINAL APPLICATION (ABA) NO.534/2019

Sachin Ramesh Athawale .vs. State of Maharashtra through PSO
P.S. Patur, Tq. Patur, Dist. Akola

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

Mr. S. S. Doifode, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : SEPTEMBER 9, 2019

Counsel for applicant is absent. Even on the last date i.e. on 30.08.2019, counsel for applicant was absent. In order to give one chance, application was kept today.

Learned A.P.P. has filed reply on record. According to reply, age of victim is 17 years 9 months. Since the offence is registered under the penal provisions of the Protection of Children From Sexual Offences Act, it would be incumbent upon the prosecution to prove age of the victim.

As per the FIR, it is clear that there is a delay in lodging FIR. Learned A.P.P. also submitted that no injuries of whatsoever nature were appearing either on the person of victim or on her private parts.

This Court (Coram: Manish Pitale, J.) on 05.08.2019 granted interim protection in favour of applicant on a condition that he shall attend Police Station. Reply filed on behalf of prosecution would

show that as per directions, applicant has attended on 11.08.2109 and 18.08.2019 and has joined investigation. Though it is stated that charge-sheet is yet to be filed, learned A.P.P., on the basis of investigation papers, makes a statement that the investigation is over and only formality of filing of charge-sheet is remained to be done. Custodial presence of present applicant is sought only for his medical examination. Applicant could have been taken for his medical examination when he has attended the Police Station. However, for the reasons best known to the investigating officer, the applicant was not taken for medical examination.

Be that as it may, since investigation is already over, in my view, custodial presence of applicant is not necessary. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.105/2019, registered with Police Station, Patur, Tq. Patur, Dist. Akola for an offence punishable under Section 376 read with Sections 4 and 5 of the Protection of Children From Sexual Offences Act, applicant-Sachin s/o Ramesh Athawale be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) Applicant shall attend Police Station Patur from 16.09.2019 to 20.09.2019 and shall be with the investigating officer from 11.00 a.m. to 05.00 p.m. It shall be open for the investigating officer to take necessary steps for his medical examination.

(iv) Since nobody is appearing on behalf of applicant, investigating officer is directed to give written communication to applicant to remain personally present before him during aforesaid period.

The application is disposed of.

JUDGE

kahale