

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

CRIMINAL APPLICATION (BA) NO.881/2019

Dhyaneshwar Gajanan Rathod Vs. State of Maharashtra, through
PSO, P.S. Ner, Yavatmal.

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

Mr. M.N. Ali, Advocate for appellant.

Mr. V.A. Thakare, A.P.P. for non applicant / State.

CORAM : V. M. DESHPANDE, J.
DATED : OCTOBER 03, 2019

Heard Mr. Ali, the learned counsel for the
applicant and Mr. Thakare, the learned Additional
Public Prosecutor for the State.

The applicant is arrested on 25.04.2019 in
connection with Crime No.702/2019 registered with
Police Station, Ner, Yavatmal for an offence
punishable under Sections 366A, 376(2)(n) of the
Indian Penal Code and Sections 4 and 6 of the
Protection of Children from Sexual Offences Act,
2012.

The first information report was lodged by
the mother of the victim Leela on 22.12.2018. Her
report would show that on 19.12.2018 the victim on
the pretext that she will bring water from the
outside, left outside and failed to return to house.
Along with her she took her Aadhaar card and

cellphone. The report further states that on 21.12.2018 she gathered information from the discussion amongst villagers that there was love affair in between victim and present applicant. Therefore, she went to the house of the present applicant just to notice that present applicant was also not present in his house and the cellphone of the victim was not responding. On the basis of this report at Police Station, Ner an offence punishable under Section 366A of the Indian Penal Code was registered. During the investigation the girl was traced. Her statement was recorded on 23.05.2019. Her statement *prima facei* shows that there was love in between victim and applicant and they ran away to Pune and resided like husband and wife and were doing labour work.

The application is opposed by the learned Additional Public Prosecutor on the ground that on the date of the incident the girl was minor.

No doubt true that girl was minor if her date of birth i.e. 16.07.2001 is considered. However, the applicant is in jail since 25.04.2019 and investigation is already over and charge-sheet is filed. In my view further custodial presence of applicant is not necessary who is also aged 27 years. Consequently, I pass following order.

ORDER

- (i) Application is allowed.
- (ii) Applicant- Dhyaneshwar Gajanan Rathod, be released on bail in connection with Crime No.702/2019 registered with Police Station, Ner, Yavatmal for an offence punishable under Sections 366A, 376(2)(n) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety of the like amount.
- (iii) The applicant is directed to attend Police Station, Ner, Yavatmal once in a month i.e. on last Sunday of each month between 03:00 p.m. to 05:00 p.m. till the culmination of trial.

Application is disposed of.

JUDGE

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