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

CRIMINAL APPLICATION (BA) NO.935/2019
Rama Ramesh Bitole
..vs..
State of Mah., thr. PSO Ghatanji, Tahsil Ghatanji, District Yavatmal

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

Shri V.N.Patre, Counsel for the Applicant
Shri V.A.Thakare, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : NOVEMBER 25, 2019.

1. Heard learned counsel Shri V.N.Patre for the applicant and learned Additional Public Prosecutor Shri V.A.Thakare for the State.

2. The applicant is arrested in connection with Crime No.209/2019/2018 registered with Ghatanji Police Station, District Yavatmal for offences punishable under Sections 376, 376(2)(n), and 506 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. Investigation is over and chargesheet is already filed.

4. The report is lodged by victim herself. Her report shows that since she was having temperature, she went to Dr.Bhure's Clinic from where he referred her at Yavatmal. At Yavatmal, doctor examining her found that she

was pregnant. The First Information Report states that present applicant used to visit her house and used to have sexual intercourse with her.

5. After arrest of the applicant, during course of investigation, it was found by Investigating Officer that since fetus was already dead, the victim was curated. Chargesheet reveals that DNA of that fetus was not amplifiable and, therefore, there is no DNA Report.

6. According to learned counsel Shri V.N.Patre for the applicant, the victim was not a child and for that he invited my attention to Birth Certificate given by a Competent Authority of Gram Panchayat of Yerandgaon. The Birth Certificate on the basis of which the prosecution is claiming that the victim is a child is also given by Ghatanji Nagar Parishad, District Yavatmal.

7. Though it will be defence, which will be tested at appropriate time, presently, it is clear that there is no DNA Report to fix paternity of the applicant. Further, investigation is over and chargesheet is already filed and even charge is not framed.

8. In this view of the matter, I pass following order:

ORDER

(a) The criminal application is allowed.

(b) Applicant-Rama Ramesh Bitole, in connection with Crime No.209/2019/2018 registered with Ghatanji Police

Station, District Yavatmal for offences punishable under Sections 376, 376(2)(n), and 506 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, be released on bail on his executing a P.R.Bond in the sum of Rs.15,000/- with one solvent surety of the like amount.

(c) The applicant is directed to attend the police station once in a month, during the pendency of the Trial, i.e. on 3rd Saturday of every month.

With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !!