

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

CRIMINAL APPLICATION (APPP) NO.1734/2019
IN CRIMINAL APPLICATION (BA)NO.906/2019 (D)

Dipak s/o Dayaram Sonwane .vs. State of Maharashtra through PSO P.S.
Amgaon, Dist. Gondia.

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

Court's or Judge's orders.

Mr. D. V. Mahajan, Advocate for applicant.
Mr. N. R. Rode, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : OCTOBER 22, 2019

Heard Mr. Mahajan, learned counsel for applicant
and Mr. Rode, learned A.P.P. for non applicant-State.

This is an application for speaking to the minutes.
On 18.10.2019, Criminal Application (BA) No.906/2019 was
allowed by this Court and the applicant was released on bail.
However, in the said order Crime number and date of the
first information report were wrongly typed.

Perusal of the application would show that these
are purely typographical errors. Hence, the application is
allowed. Order dated 18.10.2019 in Criminal Application
(BA) No.906/2019 shall be read as under:

“Heard Mr. Mahajan, learned counsel for
applicant and Mr. Rode, learned Additional Public
Prosecutor for non applicant State.

Applicant is arrested on 26.09.2018 in connection with **Crime No.213/2018** registered with Police Station, Amgaon, Tah. Amgaon, Dist. Gondia for an offence punishable under Section 376 (2)(f) (i)(n) of the Indian Penal Code read with Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act.

The investigation is over and charge-sheet is already filed. First information report is dated **25.09.2018** lodged by victim herself. The first information report discloses that her age is 14 years at the time of lodging of first information report. Her statement is registered at BGW Hospital at Gondia. As per her statement, victim and the present applicant are close relatives of each others. According to the victim, applicant established love relation with her and performed sexual intercourse on 3 to 4 occasions prior to 1½ year of first information report. It is also stated in the report that on 17.01.2018, to attend the marriage ceremony, applicant Dipak Sonwane came at village Sitepar stayed for 7 to 8 days. During that time also he established sexual relations with her, resulting into pregnancy to the victim. It is stated in the report that on 19.19.2018 due to labour pains, she was taken to the hospital where she delivered a girl child.

The investigating officer took all necessary steps to conduct investigation and accordingly final report is filed.

Today when the application was taken-up for hearing, Mr.Rode, learned Additional Public Prosecutor submits that he has received DNA report from the

investigating officer and he wishes to place a photocopy of the said on record. The DNA report is already placed on the record of sessions case by Police Station Officer, Amgaon vide letter dated 09.10.2019. DNA report is taken on record and marked as 'Exhibit-X' for the purpose of identification.

Perusal of the DNA report shows that Assistant Chemical Analyser, Regional Forensic Science Laboratory, State of Maharashtra, Nagpur after taking DNA testing, found that the present applicant-Dipak Dayaram Sonwane is excluded to be the biological father of baby of victim.

In that view of the matter, in my view, further custodial presence of the present applicant is not necessary. Of course, it will open for the prosecution to put forth its case during the course of trial in respect of sexual intercourse. Consequently, I pass following order :

ORDER

- (i) The application is allowed.
- (ii) Applicant- Dipak S/o Dayaram Sonwane, be released on bail in connection with **Crime No.213/2018** registered with Police Station, Amgaon, Tah. Amgaon, Dist. Gondia for an offence punishable under Section 376 (2)(f) (i)(n) of the Indian Penal Code read with Sections 4, 6, 8 and 10 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 in the like amount.
- (iii) The applicant is directed not to enter territorial jurisdiction of village Sitepar, Tq. Amgaon, Dist. Gondia until culmination of the trial.

(iv) The applicant is directed to attend Police Station, Amgaon, Dist. Gondia once in a month i.e. on third Tuesday of every month until culmination of trial.

JUDGE

kahale