

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

Criminal Application (BA) No. 297 of 2020

Mauna alias Shishir Bhupen Barai Vs. State Through Police Station Ramnagar,
Chandrapur.

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

Court's or Judge's orders

Mr. P.R. Agrawal, Advocate for the applicant
Mrs. S.S. Jachak, APP for the respondent - State

CORAM : MANISH PITALE, J.

DATED : MAY 26, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard learned counsel for the applicant. The applicant is seeking bail in connection with FIR dated 05/09/2019, registered against him for offences under Sections 354, 354-B, 363 of the Indian Penal code and Sections 8 and 10 of the POCSO Act. The applicant has been behind bars since 05/09/2019 i.e. the date of registration of offence.

3. The incident is alleged to have occurred on 04/09/2019, when the applicant is alleged to have sexually assaulted the victim. It is alleged that the victim knows the applicant and that the incident occurred on 04/09/2019.

4. The learned counsel appearing for the applicant submits that this is a case of false implication. It is further submitted that even if the contents of the complaint are to be accepted, at the most offences under Section 8 of the POCSO Act and Section 354 of the Indian Penal Code might be made out for which the sentence is three years. In this backdrop, it is pointed out that the applicant has been behind bars since 05/09/2019. It is stated on behalf of the applicant that if he is released on bail he will reside out of the jurisdiction of the Chandrapur district and that he will stay in the district of Gadchiroli. It is also solemnly stated that the applicant will co-operate with the Trial Court for completion of trial and he would not tamper evidence in any manner or influence the witnesses.

5. The learned APP has invited attention of this Court to the observations made by the Sessions Court in its order while rejecting the bail application wherein it is recorded that an attempt was made out by the applicant to allure the mother of the victim by offering certain amount for settling the matter. In this regard, the learned counsel appearing for the applicant has submitted that the applicant has been behind bars since 05/09/2019 and, therefore, there was no question of any action on his part. Be that as it may, this Court is of the opinion that on basis of material on record conditional bail can be granted.

6. In view of above, the application is allowed in following terms :

(i) The applicant shall be released on bail in connection with Crime No. 1120/2019 dated 05/09/2019, registered at Police Station Ramnagar, Chandrapur on furnishing PR bond of Rs. 25,000/- (Rs. Twenty Five Thousand) and surety in the like amount.

(ii) The applicant shall not enter the district Chandrapur during pendency of the trial, except for attending the proceedings before the Trial Court.

(iii) The applicant shall report to Police Station Mulchera District Gadchiroli on the second and fourth Monday of every month during pendency of the trial.

(iv) The applicant shall give details of his address and contact number to the Trial Court within a period of two weeks of release.

(v) The applicant shall not tamper with evidence in any manner or influence the witnesses.

7. Needless to say in case of violation of any of the conditions imposed by this Court, the bail granted to the applicant shall stand cancelled.

8. Application is disposed of.

9. This order be communicated to the counsel appearing

for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

MP Deshpande