

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

LD-VC- CRIMINAL BAIL APPLICATION (BA) NO. 303/2020

Sanjay Singh Tanvar

-VERSUS-

State of Maharashtra

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R. H. Rawlani, Advocate for applicant.

Shri N. S. Rao, Additional Public Prosecutor for
State/Respondent.

CORAM : VINAY JOSHI, J.

DATE : JULY 23, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant/accused is arrested in Crime No. 380/2019 registered at Wadi Police Station for the offence punishable under Sections 377, 323, 506 of the Indian Penal Code read with Sections 4, 6, 8, 12 of the POCSO Act. Besides, usual ground, it is argued that there is considerable delay of more than one year in

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lodgement of FIR. It is pointed out that though the victim has informed about the incident to his father in the month of March 2019, still for next six months, complaint was not filed. Learned counsel for the applicant would submit that the victim was college going boy having understanding age and, therefore possibility of consent cannot be ruled out. Lastly, the bail is claimed by stating that investigation is complete and charge-sheet has been filed. Moreover, it is submitted that the statutory presumption under Section 29 of the POCSO Act would not apply.

3. Learned Additional Public Prosecutor resisted the bail by submitting that at the time of initial incident of the year 2017, the victim was barely 16 years of age and thus, he was minor. Learned Additional Public Prosecutor pointed out that Medical Officer has expressed that the possibility of sexual violence cannot be ruled out. Having regard to the gravity of offence, he prayed

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for rejection.

4. The victim was young college going boy of 18 years who lodged report at Wadi Police Station on 29.09.2019. The victim stated that in the month of October, 2016, he accidentally got acquainted with accused while traveling by Rail. The said casual acquaintance was converted into proximity. The victim boy stated that first time in June 2017, accused called him at his room and committed unnatural offence. Thereafter, time to time, victim was called by accused at different places on various dates namely 02.01.2018, 18.01.2018, March 2018 etc. Sometime, victim was called at lodging house where accused by putting victim under threat of publishing his undecent photos had committed sexual violence. The victim further stated that by putting him under pressure, accused got writing that the victim owes Rs. one lakhs to accused. Thereafter, accused insisted victim and his father to pay the

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money right from March 2019. As the demand and threats were increased, police report was filed.

5. The entire narration prima facie discloses that there was absence of force or violence. It reveals that in frequent intervals wherever the accused was calling even in public place like lodging house, the victim used to attend. Few statements show that victim was residing with his classmate as well as sometime with his mother. However, for a long period about one and half year, he has not disclosed the things to anybody. I find considerable force in the submission that thought the matter was disclosed to the father of victim, still for next six months police report was not filed.

6. Medical opinion that sexual violence cannot be ruled out, is one of the possibility. However, the medical report indicates that there were no marks of force or violence. The aspect of

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consent is of less significance for the offence punishable under Section 377 of the Indian Penal Code. However, from the view point of deciding bail application, the said aspect was considered. Non-disclosure of the atrocities for months together makes a point for consideration. Already, investigation is complete and charge-sheet is filed. The trial will take its own time for disposal according to law. The accused is resident of Gujarat State therefore, by putting certain stringent conditions, he can be released on bail. Hence, following order:-

7. Application stands allowed.

8. Applicant – Sanjay Singh S/o Ran Singh Tanvar is released on bail on his furnishing P.R. Bond of Rs. 50, 000/- with one solvent surety in the like amount.

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9. The applicant/accused shall not enter into the limit of Municipal Council, Nagpur except dates of Court till conclusion of trial.

10. The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

11. 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

Gohane.