

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

L.D.V.C. CRIMINAL APPLICATION (BA) NO. 82 OF 2020

Deochand s/o Dharmaji Meshram

..vs..

State of Maharashtra thr. P.S.O.

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

Court's or Judge's orders

Shri A.S. Ambatkar, Advocate for applicant.

Ms. G.R. Tiwari, A.P.P. for State

CORAM : VINAY JOSHI, J.

DATED : 20/07/2020

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 by the Police of Bramhapuri, Distt. Chandrapur in Crime no. 190 of 2020 relating to the offence punishable under Sections 354(A), 354(B) of the Indian Penal Code and Sections 8, 10 and 12 of the Protection of Children From Sexual Offences Act, 2012. The applicant claims regular bail in terms of Section 439 of Code of Criminal Procedure by claiming innocence and false implication. In addition to that, it is pointed out that though alleged offence took place in between 17.11.2019 to 27.11.2019. First Information Report was lodged after four to five months i.e. on 16.04.2020. Moreover, it is submitted that at present, the applicant is transferred from village Kudesavli where the incident took place. The applicant further stated that, during his release on interim bail, he has not misused the liberty. Applicant assured to co-operate the prosecution agency and to

attend the trial.

3. The State resisted bail by submitting that the applicant has sexually harassed the minor students who were studying in 4th standard. Learned A.P.P. took me through the statements of some victim wherein there are allegations of sexual assault against the applicant – a teacher. Precisely, the allegations are that the applicant while working as a teacher has misbehaved with minor girls. He has kiss the minor victims, pressed their neck and chest and did the things which are in the form of sexual harassment. The alleged incident occurred prior to 27.11.2019 thereafter, internal enquiry was conducted of which report was submitted on 16.12.2019. However, F.I.R. was lodged on 16.04.2020 when the applicant was already transferred to some other school. It is informed that while working at transferred place i.e. at School at village Kolari, the applicant was suspended. There are no allegations that applicant while on interim bail has either pressurized the victims or interfered in the investigation. Admittedly, investigation is complete and charge-sheet has been filed on 05.06.2020.

4. The alleged offences are punishable up-to 7 years imprisonment. True, there is few months gap in filing F.I.R., however, during the course of trial it will be decided whether it amounts to inordinate delay, having effect on the prosecution case. The applicant has already been transferred to some other place and therefore, there is less possibility of applicant pressurizing the victims in future.

5. Having regard to the fact that, at present applicant is not staying at village Kudesavli and investigation is complete, he can be released on bail. Moreover, investigation is complete and at present Pandemic COVID-19 situation has worsened the position of jails. In view of that, following order is passed :

- (a) *The Bail Application is allowed.*
- (b) *The applicant-accused namely Deochand s/o Dharmaji Meshram is released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.*
- (c) *The applicant-accused shall not enter the limits of village Kudesavli till the conclusion of trial nor try to influence the minor through anyone.*
- (d) *The applicant-accused shall provide his residential address and cell number to concerned Investigating officer.*
- (e) *The applicant-accused shall attend Bramhapuri Police Station, Distt. Chandrapur on every alternate Monday in between 10.00 to 12.00 noon till the statement of victims are recorded in trial.*

6. This order be communicated to the Counsel appearing for the parties, either on the email address or on WhastApp or by such other mode, as is permissible in law.

JUDGE

Trupti

**Rakesh
Dhuriva**

Digitally signed by
Rakesh Dhuriya
Date: 2020.07.21
15:58:49 +0530