

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

LDVC/CRIMINAL APPLICATION (BA) NO. 79/2020

Vinod Deosharan Kushwaha

-VERSUS-

State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri M. N. Ali, Advocate for applicant.

Mrs. K. Joshi, Additional Public Prosecutor for State.

CORAM : VINAY JOSHI, J.

DATE : JUNE 22, 2020.

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

2. Heard.

3. The applicant is seeking regular bail in
connection with Crime No. 657/2019 for the
offence punishable under Sections 376(3), 363,
366A, 354D of the Indian Penal Code read with
Section 4, 12 of the POCSO Act.

2

4. Applicant claimed bail on usual grounds like innocence, false implication etc. In addition to that it is submitted that the incident is out of love affair and victim particularly stayed with accused for 45 days, meaning thereby it was her voluntary act. In resistance, it is submitted that there was age difference of seven years in between victim and accused and therefore, the accused was in dominant position. Moreover, the legal principle is reiterated that minor's consent is no consent and therefore, it cannot be taken into account.

5. At the instance of FIR lodged on 06.08.2019 by the father of victim, crime was registered. Father of victim stated that the victim went to attend tuition class but never returned. It is also disclosed that she had eloped along with accused. Particularly, I have gone through the statement of victim who was 15 years and 6 months of age. She has stated a long story as to

3

how for long time she was in love with the applicant/accused. She stated that on 06.08.2019, as per plan, she left with accused by train to Zanshi and then at several places and stayed with the accused in State of Uttar Pradesh for a period of more than one month. Apparently, there was no force and compulsion and the victim was of understandable age. Now investigation is complete and charge-sheet has been filed, hence, applicant deserves for enlargement on bail on the following conditions:-

(I) The applicant/accused is released on bail on his furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.

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

(III) The accused shall not change his place of residence without prior intimation to the concerned Investigating Officer.

6. 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.