

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

LD-VC-BA NO. 1175 OF 2020

Roshan s/o Ramesh Gavai

vs.

State of Maharashtra, through PSO Walgaon, Tah. And Dist. Amravati

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

Court's or Judge's orders

Mr. Mahesh Rai, counsel for the applicant.
Smt. Mayuri Deshmukh, APP for non-applicant State.

CORAM : MANISH PITALE J.

DATED : 28/08/2020

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

2. Applicant is one of the accused persons in FIR registered on 16/07/2020 for the offences under Section 376(3), 341, 354-A, 354A(1)9(ii) and 506(2) of the Indian Penal Code (IPC) read with Sections 3, 4, 8, 12 and 16(1) of the Protection of Children from Sexual Offences Act, 2012 (POSCO).

3. It is pointed out by the learned counsel for the applicant that while FIR was registered on 16/07/2020, the alleged incident on the basis of which the FIR was registered was dated 10/08/2019. Hence, it was emphasized that the oral report leading to

registration of FIR was submitted before the police station after about one year of the alleged incident. Apart from this, the oral report was read by the learned counsel for the applicant to show that the allegation against the applicant was that on 10/08/2019 he allegedly took the victim, a minor girl of about fifteen years of age, in his vehicle and thereafter forcibly committed sexual intercourse with her.

4. It is submitted that the applicant has been behind bars since the date of registration of the FIR and that in view of the material on record, he deserves to be released on bail.

5. The learned APP has opposed grant of relief in the present application, emphasizing upon the fact that the victim in the present case is only about fifteen years of age and the family of the victim gathered courage to approach the police station only after threats were given even to the sister of the victim. It was submitted that release of the applicant on bail would lead to the victim being harassed and threatened and therefore, the application deserves to be dismissed.

6. A perusal of the reply placed on record on behalf of the non-applicant State shows that there is no other criminal case against the applicant and that therefore, the submission of the learned counsel for the applicant that the applicant does not have any criminal antecedents, appears to be true.

7. A perusal of the FIR does show that it is lodged after about one year of the incident. A perusal of the oral report leading to registration of FIR shows that allegation against the applicant is regarding alleged forcible sexual intercourse and other allegation pertaining to photographs etc. does not pertain to the applicant.

8. In these circumstances, this Court is of the opinion that if the apprehension expressed on behalf of the non-applicant State regarding the possibility of the victim and other witnesses being influenced, is addressed by imposing appropriate condition, the applicant could be released on bail.

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

(A) The applicant is directed to be released on bail on furnishing PR bond of Rs.25000/- and surety in the like amount.

(B) The applicant shall not enter the jurisdiction of police station Walgaon, District Amravati during the pendency of the trial.

(C) The applicant shall report to police station Gadge Nagar on every first and fourth Monday of each month between 10.00am. To 5.00pm.

(D) The applicant shall remain present before the Trial Court on each and every date of the trial court proceeding.

(E) The applicant shall not in any manner seek to influence the victim and other witnesses or tamper with the evidence.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable for cancellation of bail.

11. The application is disposed of in above terms.

12. The 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