

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

LD-VC-CRIMINAL APPLICATION (BA) NO. 1065 OF 2020

(Suraj s/o Ravindra Makeshwar, Amravati Vs. State of Maharashtra, thr. PSO Nagpuri Gate, Amravati)

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

Court's or Judge's orders.

Shri A.P. Thakare, Advocate for the applicant.
Mrs. H.N. Prabhu, A.P.P. for the non-applicant.

CORAM : PUSHPA V. GANEDIWALA, J.
AUGUST 20, 2020.

Heard Shri Thakare, learned counsel for the applicant and Mrs. Prabhu, learned A.P.P. for the non-applicant/State through Video Conferencing.

2. The applicant is said to be arrested on 12/07/2020 in connection with Crime No. 234/2020 dated 12/07/2020 registered at Police Station, Nagpuri Gate, District Amravati for the offence punishable under Section 376(2)(l) of the Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

3. The allegation against the present applicant is that he took benefit of mentally disabled condition of the girl, aged around 17 years and committed sexual intercourse with her.

4. Learned counsel for the applicant submitted that except the statement of the girl, who is undisputedly mentally disabled, the prosecution in its reply could not point out any other incriminating

material against the present applicant.

5. It is also pointed out that the prosecutrix refused to co-operate for medical examination. Learned counsel for the applicant raised doubt on the prosecution story as to how the prosecutrix could not resist the present applicant from committing sexual intercourse in the lane near her house during the period between 8.00 to 8.30 pm., when she could resist her internal medical examination.

6. Be that as it may, there is a delay of two days in lodging F.I.R. The prosecution explained the said delay by submitting that the informant, at the first instance, could not understand the sign language of the prosecutrix and she understood her with the help of her relatives. It appears strange as to the mother of the prosecutrix could not understand her sign language and the relatives could understand it.

7. In the given facts, this Court is of the opinion that a fit case for grant of bail has been made out. Needless to say that the aforesaid observations are strictly for the purpose of deciding the bail application and the same shall not prejudice the case of the prosecution during trial. Hence, I proceed to pass the following order :-

ORDER

- i) The Criminal Application is allowed.
- ii) The applicant be released on bail on his

furnishing PR bond in the sum of Rs.30,000/- with one solvent surety in the like amount.

iii) The applicant shall not pressurize or issue threats to the witnesses.

iv) The applicant shall not tamper with the prosecution evidence.

v) The applicant to supply his residential address and mobile number to the concerned police station and shall not change the same.

vi) The applicant shall not leave the local jurisdiction without prior intimation to the concerned police station.

vii) The applicant shall not enter in the vicinity of the area where the witnesses reside.

viii) The applicant to attend the concerned police station on every first Thursday of each month between 12.00 noon to 2.00 pm.

8. The Criminal Application is disposed of accordingly.

9. This order be communicated to the counsel appearing for the parties, either on the email address or on Whats app or by such other mode, as is permissible in law.

JUDGE