

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

CRIMINAL APPLICATION (ABA) NO.864/2019

Abhishek s/o Devaji Chaure

..vs..

State of Mah., thr. PSO PS Kanhan, Nagpur

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

Court's or Judge's Order

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Shri S.S.Sohoni, Counsel for the Applicant.
Shri P.S.Tembhare, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.
DATED : JANUARY 09, 2020.

1. Heard learned counsel Shri S.S.Sohoni for the applicant and learned Additional Public Prosecutor Shri P.S.Tembhare for the State. Also, perused reply filed on behalf of the State.

2. The applicant, who is aged 19 years and student, is apprehending his arrest in connection with Crime No.698/2019 registered with Kanhan Police Station, Nagpur for offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code read with Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

3. As per the prosecution case, the report is lodged by victim herself. In the report itself, victim disclosed her age as 16 years, 11 months, and 12 days and is studying in a local college at Kamptee. According to her report, in the year 2016, she came in contact with the applicant when she

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was studying in 8th Std. and the applicant was studying in 10th Std.. Thereafter, she fell in love with each other. As per accusations made by her, thereafter, the applicant committed sexual intercourse with her in a Lodge repeatedly.

4. The prosecution would be under obligation to prove that at the time of incident victim was a child within the meaning of the Protection of Children from Sexual Offences Act, 2012, in view of the fact that she herself disclosed her age more than 16 years and 11 months.

5. On 17.12.2019, this Court granted *interim* protection in favour of the applicant with a direction that the applicant shall attend the police station from 20.12.2019 to 2.1.2020. Learned Additional Public Prosecutor Shri P.S.Tembhare for the State, on instructions from Investigating Officer, makes a statement that accordingly the applicant attended the police station and did interrogation with him and not only the said his medical samples are also seized.

6. In this view of the matter, in my view, the applicant, who is a student, need not be given his custodial presence. That leads me to pass following order:

ORDER

(1) The criminal application is allowed.

(2) In the event of arrest of applicant-Abhishek s/o Devaji Chaure, in connection with Crime No.698/2019 registered

with Kanhan Police Station, Nagpur for offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code read with Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012, the applicant be released on bail on he executing a P.R.Bond in the sum of Rs.15,000/- with one solvent surety of the like amount.

(3) The applicant is directed to attend the police station once in a week i.e. on every Sunday between 10:00 a.m. and 2:00 p.m., till filing of chargesheet.

With this, the criminal application stands disposed of accordingly.

JUDGE

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