

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

CRIMINAL APPLICATION (BA) NO. 173 OF 2021

Kiran s/o Mahadevrao Shaharkar

..Versus..

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 C.B. Barve, Advocate for Applicant.
Mrs. S.S. Jachak, A.P.P. for Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : 26/04/2021

Hearing was conducted through Video
Conferencing.

2. Heard. The Applicant is arrested in Crime No. 554 of 2020 registered at Deoli Police Station, District Wardha for the offence punishable under Sections 376 of the Indian Penal Code and Sections 3 read with 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). At the instance of report dated 30.08.2020 lodged by the father of the victim, the Crime was registered.

3. It is the prosecution case that on the date of occurrence i.e. on 30.08.2020 around 8.30 A.M. while the victim/minor girl aged 10-11 years was away from

her house, the Applicant/accused accosted her and took to the bathroom of Zilla Parishad School. The Applicant allegedly removed minor victim's under garments, applied saliva at her private part and inserted his penis, on which the victim minor girl started to cry.

4. Learned Counsel for the Applicant/accused firstly pointed out that the informant has stated wrong date of birth of victim as 11.12.2012 instead of 22.12.2011 as per her birth certificate. The said difference is totally insignificant as it hardly makes any difference. Undisputedly, the victim girl is minor may be of 10 or 11 years of age. Learned Counsel for the Applicant took me through the medical report to impress that there are no external injury on the person of minor victim. On perusal of medical examination report, it reveals that, the history was stated as per the allegations leveled by the informant against the accused. Though the Medical Officer did not found injuries, however, opined that sexual assault can not be ruled out.

5. The statement of victim and her mother was

recovered by the Magistrate in terms of Section 164 of the Code of Criminal Procedure, in which they adhered to their earlier version. The First Information Report was lodged on the date of occurrence itself which assumes significance. The offence is of serious nature, minor girl was sexually abused by taking her to the place of isolation. If the Applicant/accused is release on bail, it may have impact on the tender mind which would affect the smooth progress of the case. In view of that, the Applicant does not deserves for bail, hence the following order :

- (i) The Applicant stands rejected.

JUDGE

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