

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

CRIMINAL APPLICATION (BA) NO.239 OF 2021

(Dinesh Girdhar Sahare Vs. State of Maharashtra thr. PSO PS Shirajgaon Kasba, Dist.
Amravati)

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

Court's or Judge's orders.

Mr. M.D. Roy, h/f Mr. M.P. Kariya, Advocate for Applicant.
Ms. T.H. Udeshi, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 9th JULY, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant is seeking bail in Crime 171/2020 registered with Police Station Shirajgaon Kasba, District Amravati for offences punishable under Section 376 (2)(i), 506 of the Indian Penal Code and Section 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3. According to the prosecution case, the victim who was then aged 8 years was dragged to an isolated place and sexually ravished. The applicant allegedly gave the victim a neckless as an allurement for not disclosing the incident, which neckless is seized.

4. The learned counsel for the applicant points out the medical report to buttress the submission that there was no penetrative sexual assault. The medical examination report does note redness and swelling on labia. Moreover, it is well settled, that in the teeth of direct and credible evidence of the victim, the medical evidence may be subservient. Be that as it may, this is an aspect which shall have to be addressed during the course of trial.

5. I have perused the statement of victim. She has named the applicant as the perpetrator of the alleged crime and the incident is vividly described. The statement of her minor friends corroborate the version of the victim to the extent her friends state that the victim was dragged towards the river bank by the applicant.

6. The submission is that the investigation is complete and the charge-sheet is filed and that refusal of bail shall tantamount to pre-trial punishment. However, considering the gravity of the offence and the fact that conviction may entail life imprisonment, at this stage I am not inclined to grant bail.

7. If there is no significant progress in the trial in the coming nine months, the applicant shall be entitled to renew the request for bail.

8. Subject to the aforesaid observations, the application is dismissed.

JUDGE

NSN