

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

CRIMINAL APPLICATION (BA) NO.356/2021

Jagan s/o Shripat Ingale

..VS..

State of Mah., thr. PSO Selu, Tahsil Selu, District Wardha

.....
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 M.V.Rai, Counsel for the applicant.
Shri A.M.Kadukar, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE J.

DATED : APRIL 27, 2021.

1. Hearing was conducted through video conferencing and learned counsel agreed that the audio and visual quality were proper.
2. Heard learned counsel Shri M.V.Rai for the applicant and learned Addl.P.P. Shri A.M.Kadukar for the State. Also, perused entire copy of chargesheet placed on record.
3. By the present application, the applicant is praying that he be released on bail since he is arrested in connection with Crime No.72/2020 registered with Selu Police Station, district Wardha for offences punishable under Section 377 of the Indian Penal Code and under Sections 6, 10, and 12 of the Protection of Children from Sexual Offences Act, 2012.
4. Learned counsel for the applicant submitted

that on medical examination of the victim no injury was found on his private part. He submitted that the applicant is suffering from venereal disease and, therefore, he be released on bail.

5. Presence of injury or penetration is not at all necessary.

6. In the present case, victim is an unfortunate boy aged about 6 years. The wheels of criminal justice were set into motion by his mother Archana. The report is lodged on 24.2.2020 with Selu Police Station, district Wardha. Her report shows that her husband Suraj works as a driver and she is having one son i.e. victim aged about 6 years. Her statement further shows that on 24.2.2020 at about 1:15 p.m. the victim demanded Rs.2/- for purchasing chocolate which were given to him by her. Thereafter, he proceeded to purchase the chocolate. After 15-20, he came in the house. That time she noticed that he was having chocolate by name "Takatak" costing Rs.5/-. Her statement shows that she made enquiry with her son as to when only Rs.2/- were given to him, how he purchased the chocolate worth Rs.5/-. At that time the boy disclosed the incident to her. The first informant found that back portion of undergarment of the victim is wet. Thereafter, she and her husband lodged the report.

7. Statement of the victim is also recorded. His statement shows that when he came to the shop of applicant Jagan, he demanded chocolate by offering Rs.2/-. That time,

the applicant called him inside his house, removed his undergarment and done unnatural sex with him.

8. Clothes of the victim are seized. Seizure panchnama shows that at the time of seizure of undergarment of the victim investigating officer found that back portion of the undergarment was having stains. Though chemical analyzer report is yet to be received, *prima facie*, it clearly shows that something was done with the victim as otherwise there was no reason for having stains on back side of his undergarment.

9. Insofar as venereal disease is concerned, it is not the case of the applicant that he is not getting any treatment in the prison. The prison authorities will always provide necessary medical assistance to the applicant, if it is required.

10. Looking to the age of the boy and strata of the society from which he is hailing and the applicant, who is having a grocery shop, can easily influence the prosecution witness, I am of the view that this is not a case wherein any leniency can be shown.

11. The criminal application is rejected and disposed of accordingly.

JUDGE

!! BRW !!

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