

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

CRIMINAL APPLICATION (BA) 680 OF 2021

(Rihan @ Imran Baig Yunus Baig..vs.. State, thr PSO, City Kotwali, Tq. 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. Rahil Mirza, counsel for applicant.
Mr. N.S. Rao, APP for non-applicant /State.

CORAM: ROHIT B. DEO, J.

DATE: 15.09.2021.

The applicant is seeking bail in connection with Crime 172/2020, registered with Police Station City Kotwali, Amravati, for offences punishable under sections 376(A),(B),354-A, 354-B, 342, 363 of Indian Penal Code, sections 4,6,8 and 12 of the Protection of Children From Sexual Offences Act, 2012 read with section 370(4) Criminal Law Amendment Act.

2. I have heard the learned counsel Mr. Rahil Mirza for the applicant and the learned APP Mr. N.S. Rao for non-applicant/State. The father of the child victim, who was then six years old, is personally present. The father of the child victim has submitted a written note opposing bail, which is marked 'Exhibit A' for identification. The written

note submitted was made available for perusal of the learned counsel for the applicant Mr. Rahil Mirza.

3. Before advertng to the merits of the application, it may be noted that according to the father of the victim, the evidence was to commence on 3.9.2021 and he was present in the Court in response to the witness summons. Alongwith Exhibit A, the father of the child victim has placed on record copy of the witness summons. The father of the victim then states that the evidence was not recorded since the counsel for the accused sought adjournment on the ground that the application seeking bail, is pending.

4. Coming to the prosecution case, the applicant allegedly sexually molested the six years old victim. I have scrutinized the statements of witnesses and in particular the statement of the child victim who states that the applicant-accused took her in public toilet of the Municipal Corporation and sexually assaulted her by inserting finger into her private part. This was disclosed by the child victim to her father, who lodged the report. It is the case of the prosecution that at 6.30 p.m. on 27.5.2020, the child victim

was riding a bicycle and she was not within the eyesight for certain time which impelled the informant to look for her. The informant saw the child victim weeping. She disclosed the incident. The informant started searching for the assailant alongwith child victim and she identified the applicant. The public who gathered allegedly assaulted the applicant and handed him over to the police.

5. Mr. Rahil Mirza would submit, emphasizing on alleged injuries suffered by the applicant that the report is a counter blast to a previous incident. The submission is noted only for rejection. At this stage, there is absolutely no material to take the submission seriously. Ordinarily, no father would use his six years old child as a tool to lodge a false counter report. The statement of the child victim is consistent and prima facie appears truthful. The version of the child victim is corroborated by the disclosures made to the informant, one child witness, and others. The CCTV footage shows the presence of the applicant in the immediate vicinity of the public toilet. Considering the material on record, it cannot be said that there is no prima facie case. *Au contraire*, there is formidable prima facie case

to connect the applicant with the alleged offence.

6. I have already noted that the evidence was to commence on 3.9.2021. The father of the child victim did receive witness summons and according to him, the evidence was not recorded since the counsel for the accused sought adjournment on the pretext that bail application is pending. I am satisfied that there is no room to exercise discretion in favour of the applicant considering the nature of the allegations.

7. The trial will have to be expedited and the trial Court is requested to conduct the trial, if need be on a day to day basis and to conclude the same within the next six months.

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

Judge