

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

Criminal Application (BA) No.973/2021

(Deepak s/o Jaywant Gedam Vs. State of Maharashtra)

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

Court's or Judge's orders

Mr. Mayank Agnihotri, Advocate for the applicant.
Mr. N.R.Rode, APP for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 27-09-2021

The applicant is accused of subjecting the minor victim to forcible sexual intercourse. Crime 232/2020 is registered with Police Station, Allipur, for offences punishable under Sections 376, 376(3), 506 (2) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, (POCSO).

2. It is the victim, then 14 years old, who lodged the report at Police Station Allipur. The victim alleged that at 4.00 p.m. on 4.12.2020, when she was working in the agricultural field of her employer, the applicant came to the field, felled her down on the ground, undressed her and then subjected her to forcible intercourse. The applicant allegedly threatened the victim that if the incident is disclosed, she and her mother would be killed. The victim was frightened and she did not disclose the incident to her mother immediately. Since she was suffering from stomachache,

the next morning, she disclosed the incident to her mother and the report is lodged.

3. The learned counsel Mr. Mayank Agnihotri invites my attention to the medical examination report to buttress the submission that the incident could not have occurred in the manner alleged. It is pointed out that hymen injury is an old tear and doctor has not noted any sign of recent forcible intercourse.

4. At this stage, there is no reason to disbelieve the version of the victim. It is possible that the sexual intercourse may be consensual as is his claimed in the medical history narrated to the doctor. Since the victim was 14 years old, her consent, if any, is irrelevant. No explanation is forthcoming why the Medical officer, who examined the applicant-accused immediately would record a cooked up version. The history, which is recorded, is that the applicant disclosed that he had consensual sex with the minor victim 15 days prior to the medical examination and that he paid the victim Rs.100/-. It is further recorded that the accused claimed that he did not have sexual intercourse with the victim in the seven days prior to the medical examination.

5. Considering the material on record, I am not inclined to consider the prayer for bail. However, the accused is at liberty to renew the prayer for bail after

the victim is examined in the trial.

6. If the charge is not already framed, the same shall be framed within next 30 days and every attempt shall be made to conclude the trial, as expeditiously as possible, and in any event, within nine months from framing of charge. Subject to the liberty reserved, the application is dismissed.

JUDGE

ambulkar