

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

CRIMINAL APPLICATION (BA) NO. 17 OF 2021

(Sudhir S/o Bhaurao Aatram Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri M.V. Rai, Advocate for the applicant.
 Ms. Nivedita Mehta, A.P.P. for the non-applicant /State.

CORAM: MRS. SWAPNA JOSHI, J.

DATED : 25th JANUARY, 2021.

Heard Shri M.V. Rai, the learned counsel for the applicant and Ms. Nivedita Mehta, the learned APP for the non-applicant/State.

2. By this application, the applicant is seeking regular bail in Crime No. 316/2020 registered at Police Station Kharangana, District Wardha for the offences punishable under Section 377 of the Indian Penal Code and Sections 4, 8 & 12 of the Protection Of Children From Sexual Offences Act, 2012 (for short "POCSO" Act).

3. The allegations against the applicant are that he committed unnatural sexual intercourse with the victim aged about 16 years old, while they were swimming.

4. Perused the Medical Report. The Medical Report does not throw any light on the unnatural sexual intercourse. The Medical Report indicates that there is no sign of forceful anal penetration.

5. Shri Rai, the learned counsel for the applicant urged that at the most the case of attempt to commit unnatural sexual intercourse can be made out against the applicant for which the punishment is less.

6. Ms. Mehta, the learned APP opposed the said application.

7. Considering the nature of allegations and the medical evidence on record and the fact that the charge-sheet is already filed against him, so also considering that the applicant is behind bars since September 2020, in my considered opinion, the applicant be released on imposing certain conditions. Hence, the following order.

ORDER

- i. The Criminal Application is **allowed**.
- ii. The Applicant – Sudhir S/o Bhaurao Aatram, be released on bail in Crime No. 316/2020 registered at Police Station Kharangana, District Wardha for the offences punishable under Section 377 of the Indian Penal Code and Sections 4, 8 & 12 of the Protection Of Children From Sexual Offences Act, 2012, on his furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- iii. The Applicant shall neither tamper with the evidence so far collected by the prosecution nor pressurize the prosecution witnesses in any manner.

- iv. The Applicant shall attend the concerned police station on second and fourth Saturday of the month in between 11.00 a.m. to 2.00 p.m.
- v. The Applicant shall not indulge in similar type of offence in future. If it is noticed that he is involved in such type of offence, the prosecution will be at liberty to move for cancellation of bail.
- vi. The Applicant shall keep himself away from the limits of area where the victim and other witnesses are residing.
- vii. The Applicant shall not change the place of residence without prior intimation to the concerned police station.
- viii. The Applicant shall attend the dates of hearing regularly in the trial court.
- ix. His two consecutive absence without reasonable cause will entail the prosecution to move for cancellation of bail.

8. Criminal Application stands **disposed** of accordingly.

9. In view of disposal of the present application, pending Criminal Application (APPP) No. 22/2021 does not survive. The same stands disposed of accordingly.

(MRS. SWAPNA JOSHI, J.)