

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

CRIMINAL APPLICATION [ABA] NO. 850 OF 2021.

Pritam Tulsidas Jengathe

-VERSUS-

The State of Maharashtra, through P.S. Gadchiroli.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.B. Wahane, Advocate for the Applicant.
Shri S.M. Ghodeswar, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.
DATE : DECEMBER 17, 2021.

Heard.

2. The applicant is claiming pre-arrest bail in Crime No.685/2021 registered with the non-applicant Gadchiroli Police Station for the offence punishable under Sections 363, 376[2][j][n], 506 read with Section 34 of the Indian Penal Code and Sections 4 and 6 of Prevention of Children from Sexual Offences Act, 2012.

3. Usual grounds like innocence, false implication have been canvassed for seeking bail. Moreover, it is submitted that the first information report was registered against unknown person. There

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is no material against the applicant to show his complicity. It is submitted that, at the most it is a case of love relationship.

4. The State has resisted the bail by filing reply affidavit. It is contended that during the course of investigation, birth certificate of victim was collected showing that she was a 'child' within the meaning of Section 2[d] of the POCSO Act, at the time of occurrence. The statement of victim girl was recorded in which she has specifically stated that the accused had repeated sexual intercourse with her. Considering the gravity of accusation, bail is prayed to be rejected.

5. Perused case diary with special reference to the statement of the victim and medical examination report. The victim has stated that she had old acquaintance with the applicant. Both were exchanging messages and at the behest of applicant, she left her house on 30.08.2021. Both of them went at various places and while they were staying at Rajangaon, District Pune, they had sexual relation on 2-3 occasions. The prosecutrix was medically examined on 03.09.2021 in the Government Hospital, Gadchiroli.

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The victim has specifically stated the history of sexual assault. Medical report prima facie supports the prosecution case.

6. Learned counsel for the applicant while claiming bail has relied on the decision of this Court in case of **Sunil Mahadev Patil .vrs. The State of Maharashtra Bail Application No.1036/2015 (Bombay).**

Particularly, he attracted my attention towards paragraph nos. 10 and 11 of the said judgment. Infact those observations are based on facts and particularly relates to an application for grant of regular bail. The parameters for grant of pre-arrest bail are quite different and distinct, hence, applicant cannot get support from the said judgment.

7. During the course of investigation, birth certificate of victim was collected, which also supports the prosecution case. The offence is of serious nature, against a minor victim. The investigation is at preliminary stage. In view of that, no case is made out to grant pre-arrest protection. Criminal Application is therefore, rejected.

JUDGE