

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

CRIMINAL APPLICATION (BA) NO. 9 OF 2022

Chandrashekhkar Suresh Hadke...Versus...State of Maharashtra and another

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

Court's or Judge's orders

Mr. M.P.Kariya, Advocate for the applicant.
Mr. H.D.Dubey, APP for Respondent No.1/State
Mrs.S.P.Giratkar, Advocate for Respondent No.2/Victim

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/03/2022

Heard Mr. Kariya, learned counsel for the applicant, Mr. Dubey, learned APP for Respondent No.1/State and Mrs. Giratkar, learned counsel for Respondent No.2/victim.

2] The incident is dated 17.9.2021. The complaint is lodged on 18.9.2021. The medical examination has been done on 20.9.2021 and the statement of the victim has been recorded on 22.9.2021. The accused is arrested on 18.9.2021 and the charge-sheet has been filed on 15.11.2021.

3] Mr. Kariya, learned counsel for the applicant submits that the allegations against the applicant are prima facie not made out from the material available in the charge-sheet. He submits that there is a delay in the examination of the victim and so also the medical report does not support

the allegations. He therefore submits that the applicant is entitled to bail.

4] Learned APP opposes the application and submits that admittedly the victim is a minor girl and was seen with the applicant in the field, by one Akash Chavhan, whose statement pegs the presence of the applicant on the spot of the incident. He therefore submits that considering the age of the victim, the applicant should not be enlarged on bail.

5] Mrs. Giratkar, learned counsel for the victim (appointed) supports the argument of the learned APP and submits that the application be rejected.

6] In the instant matter, though the incident is alleged to have taken place on 17.9.2021, a complaint in this regard came to be lodged only on 18.9.2021 (pg. 27). This complaint does not disclose anything about the alleged offence, but only discloses that the victim was taken to the field by the applicant from near her school. The victim thereafter had been examined by the Medical Officer on 20.9.2021 (pg. 56) however, the opinion of the Gynecologist does not indicate any positive opinion regarding the alleged offence having taken place. In answer to para 25, it is opined that the hymen is old torn. The opinion of the Casualty

Medical Officer of the General Hospital, Amravati, of the same day (page 69) also does not support the theory propounded by the victim. No doubt, that the victim is 14 years of age, however, the medical evidence does not support her contention, which is indicated by the report of the Medical Officer as well as the Gynecologist. It is for the first time on 22.9.2021 i.e. when the statement of the victim was recorded after medical examination, that she has made an allegation regarding the applicant having any sexual intercourse with her on the fateful date i.e. on 17.9.2021, twice. Considering the above position, as of now prima facie a case for bail is made out, considering which the following order.

7] Application is allowed.

(i) Applicant is released for the offence under Sections 354, 376, 376(n) of the IPC, in Crime No. 265, of Police Station Talegaon, Dist Amravati, on his executing PR bond of Rs.1,00,000/- with two solvent sureties of the like amount.

(ii) The applicant shall not enter the territorial jurisdiction of Police Station Talegaon, till the trial is complete.

(iii) The applicant shall not tamper with the prosecution witnesses nor shall try to influence them directly or indirectly in any manner whatsoever.

(iv) The applicant shall attend each and every date before the Sessions Court and shall ensure that the trial is not protracted on his count.

(v) Any violation of the above conditions shall result in cancellation of bail.

8] The fee as per the schedule of fees be paid to the appointed counsel from the High Court Legal Services Sub Committee, Nagpur.

JUDGE

Rvjalit