

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

CRIMINAL APPLICATION (BA) NO.714 OF 2022

{Ajay s/o. Bhagwanrao Pathak ..Vrs.. State of Maharashtra and Anr.}

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

Court's or Judge's order

Shri S. S. Ghate, Advocate for Applicant.

Shri S. Ashirgade, Addl. P. P. for Respondent No.1/State.

Ms. S. P. Giratkar (Giripunje), Advocate (Appointed) for Respondent No.2.

CORAM : ANIL S. KILOR, J.

DATE : 18th AUGUST, 2022.

1. The applicant is seeking bail in Crime No.882 of 2021, dated 24.12.2021, registered with Karanja City Police Station, District Washim, for the offences punishable under Sections 377 and 506 of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred as "POCSO Act").

2. Shri Ghate, learned counsel for the applicant submits that the applicant has been falsely implicated in the alleged offence. It is pointed out that out of a rivalry, report came to be lodged to falsely implicate the applicant.

3. He points out from the medical report of the applicant that it does not support the case of the prosecution. It is submitted that the Doctor has opined that in genital examination, no injury was found and it was found intact.

4. He further points out from the said report that the opinion of Doctor which says that no sign of injury over the genital part was found. He submits that if the medical examination of the victim is considered, the redness was found at anal external ring. It is submitted that the applicant is in jail from December 2021 i.e. for about nine months and the further custody of the applicant is not required.

5. Learned Additional Public Prosecutor for the respondent/State strongly opposed the application and submits that considering the incriminating material available on record, this Court may not grant bail to the applicant.

6. Ms. Giratkar, learned counsel appointed for the victim reiterates the submission of the learned Additional Public Prosecutor and prays for rejection of the present criminal application.

7. I have perused the charge-sheet and First Information Report.

8. *Prima facie*, the medical examination report of the applicant and the victim do not support the case of the prosecution.

9. In the said backdrop, it can be seen that the applicant is in jail from last about nine months and in this case, the

investigation is completed and the charge-sheet has been filed.

10. As far as the apprehension of the learned Additional Public Prosecutor and the learned counsel for the victim that if the applicant is released on bail, he may tamper with the prosecution evidence, is concerned, it can be addressed by imposing certain stringent conditions. Accordingly, I pass the following order :

ORDER

- i) The criminal application is **allowed**.
- ii) It is directed that the applicant shall be released on bail in Crime No.882 of 2021, registered with Karanja City Police Station, District Washim, for the offences punishable under Sections 377 and 506 of the Indian Penal Code and Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 (PoCSO), on furnishing P.R. Bond in the sum of Rs.25,000/- (Twenty Five Thousand Only) with one solvent surety in the like amount.
- iii) The applicant shall not enter into the territorial jurisdiction of Karanja City, District Washim, till culmination of trial, except for trial.
- iv) The applicant shall provide his address alongwith the name of the nearest police station which he shall attend on 1st and 16th of each month between 10.00 a.m. to 12.00

noon, till the culmination of the trial.

v) The applicant shall not tamper with the prosecution witnesses.

vi) Fees of the learned counsel for the respondent no.2/ Victim, be quantified as per the Rules.

The criminal application is disposed of accordingly.

(JUDGE)

TAMBE