

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

CRIMINAL APPLICATION (BA) NO. 873 OF 2022

Rahul Vijay Bharati .Vs. State of Maharashtra and another.

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

Court's or Judge's Order

Shri R.M. Daga, counsel for the applicant.

Shri S.D.Sirpurkar, A.P.P. for the non-applicant No.1/State.

CORAM : ANIL S. KILOR, J.

DATED : 23/11/2022

1. Heard.
2. The applicant is seeking bail in connection with Crime No. 532/2021 registered with Police Station Talegaon, District Wardha for the offences punishable under Sections 376(2)(n), 323, 506 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act (POCSO).
3. In this case, that on 09/09/2021 when the victim had been studying in 10th Standard and she was student of the applicant, on the date of incident when there was no student in tuition class the applicant had committed sexual intercourse with her. Thereafter, again on 11/09/2021, the applicant repeated the said act. Thereafter, the applicant used to commit regular sexual intercourse with her. The victim missed her menstruation period and upon enquiry, she narrated to her parent the aforesaid incident. During medical examination victim was found to be pregnant,

thereafter on 24/11/2021, the victim lodged the report of the incident.

4. The submission of the learned counsel for the applicant that, as the DNA Report does not support the prosecution story, the involvement of the applicant in the alleged offence is doubtful, cannot be accepted, looking at the incriminating material available against the applicant and the specific allegations made by the victim in her complaint.

5. Furthermore, the DNA test cannot be considered as substantive proof for establishing the offence of rape. Whereas, it can be used as corroborative evidence.

6. The allegations are very serious. The victim was the student of the applicant and the relations between the applicant and the victim were Teacher and Student.

7. Considering the prima-facie evidence to show the involvement of the applicant in the alleged offence, I am not inclined to grant bail. Accordingly, I pass the following order:

The criminal application is **rejected**.

JUDGE