

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

Criminal Application (BA) No. 1213 of 2022

Dnyanba @ Shrikrushna Hanumant Kurkute

Versus

State of Maharashtra, through Police Station Officer, Arni, Tah. Arni, Dist.
Yavatmal 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 G.M.Kubade, Advocate for the applicant.

Shri V.A.Thakare, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 19th DECEMBER, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 372 of 2022 registered with Police Station Arni, Dist. Yavatmal for the offence punishable under Sections 376, 376(a)(b) of Indian Penal Code and Sections 4 and 6 of the Protection of Children from Sexual Offence Act, 2012.

2. Today, nobody appeared on behalf of the non-applicant no.2, though served.

3. Allegations are of sexual assault committed by the applicant. The victim is minor. The medical

report *prima facie* does not show any slightest penetration therefore in absence of any such evidence at this stage it is difficult to say that there was penetrative sexual assault. In that view of the matter, the maximum punishment would be five years.

4. The whole case is based on videography made in the mobile. The report of the same is pending and not yet received.

5. The applicant is in jail since 23rd April, 2022 and after completion of investigation, the chargesheet has been filed.

6. Furthermore, there is nothing to point out if the applicant is released on bail he would not be available for trial. In the circumstances, though the learned Additional Public Prosecutor is opposing the present application, I am of the opinion that with certain stringent conditions, the applicant should be released on bail. Accordingly, I pass the following order.

- i. Criminal application is allowed;
- ii. It is directed that the applicants shall be released on bail in Crime No. 372 of 2022 registered with Police Station Arni, Dist. Yavatmal for the offence punishable under Sections 376, 376(a)(b) of Indian Penal Code and Sections 4 and 6 of the Protection of Children from

Sexual Offence Act, 2012, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount;

iii. The applicant shall not enter the territorial jurisdiction of Gram Dehani, Taluka Digras, Dist. Yavatmal till culmination of the trial;

iv. The applicant shall attend the concerned Police Station on 1st and 16th of each month between 10 am to 12 noon till culmination of trial;

v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not to tamper with the evidence;

vi. State is at liberty to apply for cancellation of bail, in case the applicants commits similar offence or breach the condition.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHINDANAND
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Date: 2022.12.19
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