

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

CRIMINAL APPLICATION (BA) NO.1117 OF 2022

Dr. Vijay S/o Bhaiyalal Dahale .Vs. State of Maharashtra, through P.S.O., P.S.
Tumsar, Tah. Tumsar, Dist. Bhandara and antoher

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

Court's or Judge's Order

Shri R.P. Joshi, Advocate for the applicant.

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

Shri A.M. Balpande, Advocate for the non-applicant No.2(Appointed).

CORAM : ANIL S. KILOR, J.
DATED : 07/10/2022

Heard.

2. The applicant is seeking bail in Crime No.297 of 2022, registered with Police Station Tumsar, District: Bhandara, for the offences punishable under Sections 354-A(2) and 376(3) of the Indian Penal Code and Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act (hereinafter referred to as "POCSO Act").

3. The prosecution case is that the victim who is a minor girl used to go for practice of running for the sport purposes. On one occasion during the practice, she felt some pain in abdomen and legs. Therefore, she went to the applicant who is the doctor. The applicant recommended one month therapy and she was asked to come to the clinic everyday for one hour. The allegations are that during the

treatment the applicant touched the various parts of the body of victim including private part and this he did repeatedly. The victim disclosed it on 13.08.2022 to her sister and accordingly, on 15.08.2022, the complaint was lodged. Thereupon, the applicant was arrested and since then, he is in jail.

4. After going through the complaint and the allegations, *prima facie*, it appears that immediately after eight days of therapy, the behaviour of the applicant was found to be improper. However, she did not make complaint to her mother or the sister or any other family members and continued the treatment. It is her allegations that everyday she faced such type of behaviour of the applicant and lastly on 13.08.2022, she disclosed it to her sister.

5. The applicant is running his centre for last about 20 years and there is not a single complaint against the applicant in last 20 years. Furthermore, the victim did not disclose the improper behaviour of the applicant to her family members immediately after the first incident but, continued the treatment for long time.

6. Thus, it creates doubt about the veracity of the allegations. Moreover, it is the case of the prosecution that

the sister of the victim used to be present at the centre of therapy with the victim.

7. In the above referred backdrop, if the photographs of the cabin of the applicant doctors is seen which is available in the case dairy, it can be seen that it is a small cabin in which there are two stretchers like beds in it with curtains in between table and chair of the doctor and the said stretchers like beds. It can further be seen that there is no separate room or chamber for therapy. In the circumstances, the prosecution story *prima facie* appears to be improbable.

8. Thus, considering the material collected by the Investigation Officer and the fact that, the investigation is almost completed, though the learned APP and the learned counsel for the victim are strongly opposing the present application on the ground that the offence is very serious, I am of the opinion that further custody of the applicant is not necessary. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that the applicant shall be released on bail in Crime No.297 of 2022, registered with Police Station Tumsar, District: Bhandara, for the offences punishable under Sections

354-A(2) and 376(3) of the Indian Penal Code and Sections 4, 6, 8 and 10 of the POCSO Act, the applicant shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.

- c) The applicant shall attend the concerned Police Station on 1st and 16th of each month between 10.00 a.m. to 11.00 a.m., till the culmination of the trial.
- d) The applicant shall not tamper with the prosecution witnesses.

The criminal application is **disposed of** accordingly.

JUDGE