

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2297 OF 2014

Radheyshyam Sitaram Harijan .Applicant

V/s.

The State of Maharashtra .Respondent

Mr.K.R.Yadav, Advocate, for the Applicant

Mr.Y.M.Nakhwa, APP, for the Respondent - State

CORAM : P.D.KODE, J.

DATE : 23RD DECEMBER, 2014

P.C.

. Heard. Learned APP has opted to argue without filing the say in view of the charge sheet being filed.

2. Mr.Yadav, learned counsel has pressed the prayer for bail for the applicant charge sheeted along with one more co-accused by the Khandeshwar Police Station, District – Raigad for the commission of the offences punishable under Sections 363, 366A, 506, 376(2)(i)(j)(n)

& 376D of the Indian Penal Code. The said police station has charge sheeted the applicant on the accusation of the himself in furtherance of their common intention with co-accused ravished a minor girl aged 13 years. The said police station has accordingly charge sheeted the applicant as a result of investigation of the FIR lodged by mother of the victim on 06.03.2014. Without detailing the other matters in the report, it can be said that the first informant took the victim – girl to Dr. on 05.03.2014 after she complained of the pains in the stomach. As advised by the said hospital, she took the victim to the Government Hospital on the next day. Dr. at the said hospital after examination of the victim declared that she was carrying pregnancy of 18 weeks. Thereafter, the first informant has lodged a complaint with the Khandeshwar Police Station regarding her minor girl aged 13 years being

ravished by some unknown person. Thus, considering the said matters and the complaint being lodged against the unknown person takes away all the sting of the submission canvassed by the learned counsel for the applicant of the first informant – mother having falsely implicated him as he was working with the father of the victim – girl with whom the said first informant was having strained relationship.

3. A perusal of the charge sheet reveals that statement of the victim – girl was recorded by the police on 12.03.2014 without narrating in detail the matters from it, it can be safely said that the same gives sketchy account of the incident in which firstly she was ravished by the applicant and co-accused having taken her to his house by luring her of giving sweets and thereafter, giving her some pills and chocolates, both have ravished her.

Further account in the said statement reveals that how systematically thereafter, she was sexually exploited by the applicant and the co-accused by giving threats.

4. Thus, after considering the material in the said statement of the victim – girl and firstly, the rape being committed in the house of the applicant when his wife was not present, it is difficult to accept submission canvassed that since the applicant is married and rape is allegedly committed by him in his house, the story is inherently improbable. It can be further added that the evidence/material available in the shape of the statement of the victim – girl cannot be said to be incredible merely because of the said circumstance pointed. On the contrary, the statement reveals that wife of the applicant then was not present in the said house. The said facet itself denotes that the

said house being the safe place for the applicant for committing such heinous act without other persons noticing it.

5. Thus, having regard to the said direct material against the applicant and the same squarely denoting his involvement in sexually exploiting the minor on occasions, it is difficult to accede the prayer for bail on the count of investigation being complete and charge sheet being filed and/or it will take some time for completion of the trial. Thus, there are no merits in the application preferred by the applicant.

6. The Bail Application stands rejected.

(P.D.KODE, J.)