

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 852 OF 2015

Gaffurshah s/o. Makbulshah **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. R.P. Phatke, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 3rd March, 2015.

ORDER :

1. The application is filed for bail. Heard the learned APP. Seen the record. Nobody has turned up for the applicant.

2. On the basis of report given by mother of the victim girl, the crime is registered for the offence of rape and also under some sections of Protection of Children from Sexual Offences Act. The victim girl is aged about 13 years and she is mentally retarded person. The incident in question had taken place on 26.9.2014 after 12.15 p.m. The victim girl had left the company of mother for answering the nature's call and she had gone with a pot. One Kiran Wagh came running towards complainant and informed that she had seen the present applicant dragging the victim girl towards the standing crop of

maze. The complainant rushed to the spot. When she entered in the crop, she noticed that present applicant was committing rape against her mentally retarded girl. The complainant held accused and gave him slap. The applicant then ran away. The complainant made inquiry with the victim girl and she disclosed the incident. The complainant realized that the applicant had committed the offence of rape and so, she gave report.

3. This Court has gone through the statements of Kiran Wagh and record of medical examination of victim girl. This Court has gone through the grounds on which the bail is claimed.

4. Considering the age of the victim girl, which is aged about 13 years and considering the fact that she is mentally retarded person until today, the investigating agency could not record her statement. This Court holds that this is not a fit case to grant the relief. There is possibility of tampering with the prosecution witnesses. The record shows that the accused had abandoned the clothes when the complainant came to the spot and these clothes are produced by the complainant before police. This circumstance gives corroboration to the allegations made against the applicant.

5. In the result, the application is rejected.

[T.V. NALAWADE, J.]

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