

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1002 OF 2019

Sau.Varsha Dwarkeshwar Narale

Applicant

versus

The State of Maharashtra

Respondent

Mr.Rajaram V. Bansode for applicant.

Mr.H.J.Dedhia, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th November 2019

PC :

1. This is an application for bail in CR No.65 of 2018 registered with Mhaswad Police Station, District Satara under Sections 376(2) (1), 201, 176, 212 r/w 34 of IPC as well as Sections 3 and 4 of POCSO Act.

2. The aforesaid crime was registered pursuant to the first information report lodged by the father of victim girl. The first informant had alleged that on 1st June 2018 at about 7.30 pm, while he was sitting near the gym, he saw a car near the village crematorium. He heard small girls crying and hence he proceeded towards the said car. He saw his wife Varsha, her cousin Bajirao, aunt Gokulabai, in the said car, unknown person was driving car. As soon as his wife saw him, she dropped minor daughter, aged 6 and 5, at the spot and went away with the third minor daughter. He had stated that his six year old daughter was lying on the ground and

was in pain. The informant took his daughters home. It was noticed that the victim daughter had pain in her private part. He suspected that the girl was sexually abused. She was taken to hospital. It was suspected that Bajirao in connivance with other accused had committed rape on victim. He, therefore, lodged the first information report against Bajirao for committing rape on his minor daughter with the help of his wife (applicant) and co-accused Gokulabai. Investigation is completed and charge sheet is filed.

3. The medical report prima facie indicates that there were no injuries on the genitals of the victim. The medical certificate does not support the case of the prosecution. It is also to be noted that there is matrimonial dispute between the first informant and applicant. The present FIR appears to be an offshoot of the said matrimonial dispute. The applicant is mother of child who is allegedly abused. The history provided while medical examination of child by first informant is that applicant had eloped from house with a main on 16-5-2018. She was brought by police on 19-5-2018. She again eloped with children. Thus, there is apparent differences between complainant and applicant. The medical certificate mentions that on clinical examination, there is no evidence of vaginal penetration with no fresh injury.

4. The applicant is in custody since 8th June 2018. Charge sheet has already been filed. The presence of the applicant is no longer required in custody for the purpose of interrogation. The applicant is a permanent resident of Paryanti, Tal.Man. There is no possibility of applicant absconding and/or thwarting the course of justice. Considering the above facts and circumstances, bail can be granted

to the applicant. The co-accused Gokulabai has been granted bail by Trial Court vide order dated 5-10-2018 Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.1002 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.65 of 2018 registered with Mhaswad Police Station, District Satara, on furnishing PR bonds in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not tamper with evidence;
- (iv) The applicant shall report the Investigating Officer once in a month on every first Saturday between 10 am and 12 noon till further orders.

(PRAKASH D. NAIK, J.)

MST