

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1083 OF 2019

Yogesh Balasaheb Pichad] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Kashyap Bhalerao, Advocate for the Applicant.

Mr. S.H. Yadav, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 31st JULY, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.44/2018 registered with Otur Police Station, Pune u/sec. 376 (2) (i) (j), 506, 376 (d) of I.P.C. and u/sec. 4, 8 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The FIR is lodged by the prosecutrix on 08/03/2018 in respect of the incident dated 05/03/2018. The victim was 14 years of age at the time of incident. She has stated that, on 05/03/2018 at around 8.45 p.m., when she was proceeding on road towards Taleran, the present applicant and one Dinesh Gode came near her. They had

consumed liquor. The applicant and his companion offered to accompany to her house. They parked their motorcycle near road and all of them proceeded towards her house. But instead of going to her house, she was taken to a field. The present applicant overpowered her. He pressed her mouth and his companion Dinesh Gode committed rape on her. Thereafter, even the present applicant committed rape on her. After that she was left near her house. She was threatened. When the prosecutrix reached home, she informed about the incident to her mother and neighbour Shaila. After that they went to Police Patil and thereafter the FIR was lodged on 08/03/2018.

3. The applicant was arrested on 09/03/2018 and since then he is in custody.

4. Heard Mr. Kashyap Bhalerao, Ld. Counsel for the Applicant and Mr. S.H. Yadav, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicant submitted that, the applicant is falsely implicated. The incident has never taken place. The medical

evidence does not support the case of the prosecutrix. He submitted that, there is inordinate delay of three days in lodging the FIR. He submitted that, the applicant is a young boy of 21 years of age. He submitted that, the applicant is falsely implicated because of the property dispute between the family.

6. Ld. APP submitted that, the offence is serious. He submitted that, there is presumption under POCSO Act which is applicable against the present applicant.

7. I have considered the submissions. In this case, the victim was only 14 years of age. She had immediately narrated the incident to her mother and neighbour. The charge-sheet contains statements of mother and neighbour which support her case. The contention that, there were no injuries on the person of the prosecutrix as no force because she was overpowered by two people. The medical opinion mentions that, the evidence of sexual intercourse was not ruled out. Though the final opinion was reserved till receipt of FSL report.

8. The age of the victim was only 14 years and she was over

powered by two people. In this view of the matter, the offence is very serious. The provisions of POCSO Act are also applied. Therefore, at this stage, the applicant does not deserve to be released on bail. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)