

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

CRIMINAL APPLICATION NO.1388 OF 2019
IN
CRIMINAL APPEAL NO. 1131 OF 2019

Yuvraj @ Surya Selven Pille ... Applicant
Vs
State of Maharashtra & Anr. ... Respondents

...
Mr. Ganesh Gole with Mr. A.Shirodkar for the Applicant.
Mrs. M.H.Mhatre, APP for the Respondent-State.

CORAM : B.P.DHARMADHIKARI &
SANDEEP K. SHINDE JJ.
DATE : SEPTEMBER 30, 2019

P.C. :

Applicant, who convicted by the Special Judge under the POCSO Act on 2nd August, 2019 for the offences punishable under Sections 376(d), 377, 328 and 201 of the IPC as also under Sections 120B, 506II and 342 of the IPC is before this Court seeking release on bail.

2 *Main contentions are that alleged incident is dated 1st November, 2013, only NC was registered against the present applicant on 2nd November, 2013 and against accused no.1 and thereafter on 3rd November, 2013 an*

entirely different version involving the present applicant also came to be filed in the shape of the FIR. FIR is filed after intervention of so-called social workers.

3 *Our attention is drawn to narration of prosecutrix to show that the attack as described would have definitely left some wounds and marks. P.W.11 Doctor does not support any such assault or force.*

4 *According to the prosecutrix, she met P.W.3 first and narrated entire episode to him. P.W.3 does not support this. Thereafter, she is taken to her brother P.W.2 but P.W.2 also does not fully support the prosecution case. First intimation to police is only against accused no.1 and not against the present applicant.*

5 *The learned counsel states that thus FIR on 3rd November, 2013 is after due deliberations and with intention to falsely involve present applicant. Our attention is also drawn to the fact that victim has gone to Gorakhpur with juvenile accused persons and this fact is admitted by her.*

6 *The learned counsel, therefore, states that this is a fit matter in which applicant should be released on bail.*

7 *The learned APP has strongly opposed the contentions. She points out that though PW 3 has not fully supported the prosecution, he points out seeing prosecutrix in night hours and then he has taken her to PW 2. Prosecutrix may have admitted visiting Gorakhpur with three juvenile accused but that does not help present applicant.*

8 *The C.A.Report connects soil recovered from clothes of the accused with soil on the spot. Not only this, the witnesses, who were working in the hotel from where beer bottles were purchased also support prosecution.*

9 *Perusal of the evidence of P.W.11 Doctor shows that prosecutrix has history of old penetrating sexual intercourse though they were no fresh injuries. Cross-examination of Doctor only shows that there is every possibility of laceration or abrasion in case of force.*

10 *P.W.3, who appears to be a minor witness, has*

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seen and helped prosecutrix at odd hours in the night. P.W.2 explains the situation . We have also perused evidence of prosecutrix (P.W.1). It appears that she may not have immediately disclosed entire assault to P.W.2.

11 The presence of the victim at the spot of the occurrence has been established by the prosecution through scientific evidence. Fact that she was made to drink beer and for that beer bottles were purchased is also supported by independent witness.

12 In this situation, at this stage, we are not inclined to delve more into the evidence. No case is made out. Application rejected.

(SANDEEP K. SHINDE, J.) (B.P.DHARMADHIKARI, J.)