

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

CRIMINAL BAIL APPLICATION NO. 2433 OF 2019

Omkar Dadasaheb Pujari ...Applicant

V/s

The State of Maharashtra ...Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 2506 OF 2019

Abhijit @ Pappu Dharmaraj Chavan ...Applicant

V/s

The State of Maharashtra ...Respondent

Ms. Bhagyashri R. Mangale for the applicant in BA No. 2433/2019.

Mr. Prashant S. Hagare for the applicant in BA No. 2506/19.

Mr. H. J. Dedhia, APP for the State/respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th December, 2019

PC :

1. The applicants are seeking bail in connection with C.R. No. 260 of 2019, registered with Karmala Police Station, District-Solapur, for the offences punishable under Sections 376, 376(3), 384, 323, 504, 506 r/w. 34 of the Indian Penal Code, 1860 ('IPC' for short) and Sections 4,6, 17 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' for short).

2. Complaint was lodged by mother of victim on 12th April, 2019. It is alleged that on 7th April, 2019, she was informed by Dharmaraj Chavan (father of applicant Abhijeet Chavan) that her daughter (victim) is in their house. The complainant had visited house of Dharmaraj Chavan. Wife of Dharmaraj told complainant that victim was passing through the road crying, hence she was taken in their house. The victim disclosed that in November, 2018, while she was going to school, Gauri Gathe and Omkar Pujari met her. She accompanied them. They took her to room. Both of them pushed victim in room and closed door from outside. Abhijit Chavan was inside room. He had forcible sexual intercourse with her. Thereafter, the said accused threatened her. She also disclosed that thereafter again accused took her to hotel and had physical relationship.

3. The age of the victim at the time of incident is 14 years 7 months. The statement of the victim was recorded under Section 164 of Code of Criminal Procedure, 1973 ('Cr.PC' for short). On completing investigation, charge-sheet is filed.

4. I have perused the complaint, statement of the victim

recorded under Section 164 of Cr.PC and other documents on record. The victim had disclosed that in November 2018, the applicant Abhijit Chavan had sexually assaulted her. She was taken to the premises by Gauri Gathe and applicant Omkar Pujari. Both of them pushed victim in room. The door was closed from outside and the other accused Abhijit @ Pappu Chavan subjected her to sexual assault. The victim had also disclosed that five days later, accused Abhijit Chavan took her from his Swift car to hotel Dhanashree at Nagar Road, Karmala. They checked into room of the hotel. Accused had forcible sexual intercourse with her. Thus, the first incident was in November 2018, which was followed by second incident five days thereafter, where allegedly accused had forcible sexual intercourse with the victim. The alleged incident was informed to the complainant on 7th April, 2019. The F.I.R. was lodged on 12th April, 2019. Victim had accompanied the accused in the hotel. Although, the first incident had occurred in November, 2018, the accused had allegedly taken her to the hotel, immediately thereafter where they had physical relationship. I have perused the medical case paper. One page document produced by applicant do not indicate incriminating circumstance. In this statement under Section

164 Cr.PC. Victim has referred to incidents referred to above. It is alleged that applicant Abhijit Chavan had threatened her about recording of video and thus she accompanied him. In statement under Section 164, victim has also alleged that Omkar Pujari had clicked her photograph. Complainant has narrated the incident as stated to her by victim. There is no reference to clicking photograph or video recording. The victim had not informed about incident to any person. Although, the complainant was informed about incident on 7.4.2019, F.I.R. was lodged on 12.4.2019. Considering the aforesaid circumstances, bail can be granted on certain terms and conditions.

ORDER

- (i) Bail Application No. 2433 of 2019 and Bail Application No. 2506 of 2019, are allowed;
- (ii) The applicants in both the Criminal Bail Applications are directed to be released on bail in connection with C.R. No.260 of 2019, registered with Karmala Police Station, Solapur, on furnishing P.R. Bond in the sum of Rs.25,000/-, each with one or more sureties in the like amount;
- (iii) The applicants shall report the concerned Police

Station, once in a month on first Saturday of every month between 10:00 a.m. to 12:00 noon till further order;

(iv) Applicants shall not approach the victim or her relatives during the pendency of the Trial and shall not tamper with the evidence;

(iv) Both the Criminal Bail Applications stand disposed of under the aforesaid terms.

(PRAKASH D. NAIK, J.)