

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

30 BAIL APPLICATION NO.1405 OF 2020

SAGAR BHATU @ PRAVIN BHIL-SONAVANE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Patil Vinod Prakash.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : V. K. JADHAV, J.
DATE : 14.12.2020

PER COURT :-

1. The applicant is seeking regular bail in connection with Crime No.132 of 2020 registered with Dharangaon Police Station, District Jalgaon for the offences punishable under Sections 363, 376, 376(D), 366(A), 354 read with Section 34 of the IPC and Section 4, 8, 12 of the POCSO Act. His application with similar prayer bearing Criminal Bail Application No.516 of 2020 came to be rejected by the learned Additional Sessions Judge, Jalgaon.

2. The learned counsel for the applicant submits that, the investigation is now over and the charge-sheet has been

submitted. The applicant is in jail in connection with the present crime since 27.07.2020. The applicant is young person having no criminal history. The applicant got married some eight days prior to the incident. The learned counsel submits that the allegations about kidnapping and commission of rape have been made only against co-accused Arun. The victim has not made any allegations against any one in her police statement, however, she had made certain allegations in her statement recorded under Section 164 of the Cr.P.C. before the Magistrate. The learned counsel for the applicant submits that the victim and the said co-accused got married and the photographs to that effect are annexed with the application. The learned counsel submits that the applicant is ready to abide any condition, if imposed by this Court while releasing him on bail. The applicant may be released on bail.

3. The learned APP has strongly resisted the application on the ground that though the victim has not made any allegations against any one in her police statement, however, in her statement recorded under Section 164 of the Cr.P.C. before the Magistrate, the victim has made the allegations against all

the co-accused persons and the applicant. The victim who is less than 18 years of age (seventeen years and six months) has alleged that the co-accused Arun has committed rape on her, however, the other co-accused persons including the applicant were present there and they have actively assisted co-accused Arun to perform the sexual intercourse with the victim against her will. The allegations to the extent that the other co-accused persons by taking the undue advantage of the helpless position of the victim has also outraged her modesty at that time. *Prima facie*, there is a strong case against the applicant. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, it appears that the allegations have been made against co-accused Arun about commission of rape. Though the statement recorded under Section 164 of the Cr.P.C. before the Magistrate, after a lapse of considerable period, the victim has not only made the allegations against the co-accused Arun but also made the allegations against the co-accused persons including the present applicant. There are allegations to the effect that the

said co-accused Arun has forcibly performed the sexual intercourse with her and the other co-accused persons including the applicant have assisted him during the said act. On careful perusal of the said statement recorded under Section 164 of the Cr.P.C., it appears that the victim has referred specifically the acts of the other co-accused persons, however, no specific act is ascribed to the present applicant. It appears from the statement of the victim that she had joined the company of co-accused Arun and travelled with him on his motorcycle. The applicant is a young person having no criminal history. Thus, considering the entire aspect of the case, particularly considering the nature of the allegations, as against the present applicant, I am inclined to release the applicant on bail with certain condition. Hence, I proceed to pass the following order :

ORDER

1. The application is hereby allowed.
2. The applicant SAGAR BHATU @ PRAVIN BHIL-SONAVANE in connection with Crime No.132 of 2020 registered with Dharangaon Police Station, District Jalgaon for the offences punishable under

Sections 363, 376, 376(D), 366(A), 354 read with Section 34 of the IPC and Section 4, 8, 12 of the POCSO Act, be released on bail on furnishing PB. of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of the like amount on the following condition :-

- a] The applicant shall not tamper with the prosecution evidence in any manner.
3. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-