

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

CRIMINAL BAIL APPLICATION NO. 666 OF 2020

Sanjay Tulsidas WaghatApplicant
Versus
The State of Maharashtra Respondent

Mr. Milan Desai i/b. Mr. T. R. Patel for Applicant
Mr. S.H. Yadav, APP for the State/Respondent

**CORAM :SARANG V. KOTWAL, J.
DATE :15TH DECEMBER, 2020**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R. No. 145 of 2016 registered with Aarey Police Station on 26th November, 2016 under sections 376, 354 of the Indian Penal Code and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act.

2. Heard Mr. Milan Desai, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the State/Respondent.

3. The FIR is lodged by the prosecutrix herself, who was 14 years of age. She has stated in her FIR that she was studying in IXth Std. She knew one Sunil More, who was working as

watchman. In April, 2016, Accused Sunil More came to her house and committed rape on her. He came back after sometime and threatened her. He repeated his act on a few more occasions. In November, 2016, the victim suffered from fever and vomiting and, therefore, she was medically examined. It was revealed that she was pregnant. On this basis, the FIR is lodged.

4. After lodging the FIR, on 26th November, 2016, she gave her supplementary statement and, in that supplementary statement, she has implicated the present applicant. She has stated in that statement that one Satyawar Kadam committed rape on her in March, 2016. The present Applicant committed rape on her in July, 2016. Since August, 2016, the victim missed her periods and, thereafter, as mentioned earlier, she was medically examined and the FIR was lodged.

5. Heard Mr. Milan Desai, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the State/Respondent.

6. Learned counsel for the Applicant submitted that the other co-accused Sunil More and Satyawar Kadam, who were

implicated by the victim, are granted bail by the Sessions Court. He submitted that the DNA report in this case is not a strong piece of evidence as there is no covering letter showing sending of blood samples of the present Applicant to C.A. According to him, the connecting link is missing and, therefore, the DNA report cannot be connected with the blood samples of the Applicant.

7. Learned APP relied on the statement of the victim and the DNA report.

8. I have considered the submissions. The order granting bail to the co-accused Sunil More by the Sessions Court itself mentions that the DNA report shows that the present Applicant was the biological father of the foetus. The other accused Satyawar Kadam was released on bail on the ground of parity because Sunil More was granted bail. However, the Applicant's case is obviously different from that of the other accused, who were released on bail. The most important evidence in this case is DNA report. Though the learned counsel for the Applicant is submitted that the covering letter showing sending of blood samples is not a part of the charge-sheet, the CA report itself has

clearly mentioned that the Applicant and the victim are concluded to be the biological father and mother of the product of conception of the victim. The other accused are excluded to be the biological father. The precautions taken in sending the samples and the covering letter on that behalf, obviously is the subject matter at the stage of trial. At this stage, the categorical findings given by the Government Forensic Laboratory cannot be ignored. Apart from this report, the statement of the victim clearly implicated the present applicant. Though she has not mentioned the Applicant's name in the FIR; but she has given her supplementary statement mentioning Applicant's role, which is corroborated by the DNA report.

9. In this view of the matter, no case is made out by the Applicant for his release on bail. Hence, application for bail is rejected.

Sd/-
(SARANG V. KOTWAL, J.)

Tikam