

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

CRIMINAL BAIL APPLICATION NO. 1803 OF 2019

Ganesh @ Ganesh Anna Jagannath Mokal ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Nitin Sejpal a/w Smt. Pooja Sejpal, Advocate for the Applicant.
Smt. A. A. Takalkar, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 7th February, 2020

PC :

1. This is an application for bail in C.R. No. I-80 of 2018 registered with Panvel Taluka Police Station, for offence punishable under Sections 376(2) (I) of Indian Penal Code. The FIR was lodged on 13th May, 2018.

2. The case of the prosecution is that the complainant is the mother of victim. The victim is aged about 25 year. She is mentally retarded On 12th May, 2018 the victim told her mother that on 11th May, 2018 the applicant had called her in the dilapidated house of complainant's mother-in-law and committed sexual intercourse with her. The complainant questioned the applicant about the same. The family members of the applicant were present in the house. The

applicant admitted to have committed the act. Thereafter, the complainant lodged the FIR. The statement of the victim was recorded where she has referred to sexual act committed by the applicant. Statement of the father and other witnesses were recorded. Victim was medically examined. On completing investigation, charge-sheet was filed.

3. The applicant had preferred application for bail before the Sessions Court which was rejected by order dated 7th January, 2019. Learned Advocate for the applicant submitted that the applicant has been falsely implicated in this case. All the witnesses are interested persons. Medical evidence does not support the prosecution. There is no evidence to show that the victim was subjected to sexual assault. The applicant is in custody from the date of arrest. He would abide any condition, if bail is granted. The FIR was lodged by the complainant. Supplementary statement was recorded. Her version contradictory to medical evidence. The applicant is in custody for more than a year.

4. Learned APP submitted that there is sufficient evidence against the applicant to show his involvement. The victim has immediately informed about the incident to her mother. The complaint was lodged immediately on the next day. The statement of witness is

recorded who had seen the accused coming out the place of incident followed by the victim. There is statement of the witness who had seen the applicant talking to the victim. The certificate on record shows that the victim was mentally retarded. Her statement attributes specific role to the applicant.

5. I have perused the documents; the statement of the complainant narrates the incident as informed her by the victim. The statement of victim also attributes role of sexual assaulting by them. Statement of witness Pranay Patil mentions that he has seen the victim and the accused coming out from place of incident. Statement of Lata Thakur refers to the fact that she has seen the applicant talking to the victim. I have also perused the medical evidence on record. The contentions of the applicant cannot be considered at this stage. Hence, no case for grant of bail is made out.

ORDER

- i) Bail Application No. 1803 of 2019 stands rejected and disposed of accordingly.
- ii) Trial is expedited.

(PRAKASH D. NAIK, J.)