

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

907 BAIL APPLICATION NO.20 OF 2021

RAMESHWAR S/O SHIVAJI MANE
VERSUS
THE STATE OF MAHARASHTRA AND ANR.

...
Advocate for Applicant : Smt. Sharada P. Chate
APP for Respondent No.1 : Shri G.O.Wattamwar
Advocate for Respondent No.2 : Smt. Ashwini Lomte (appointed)

...
CORAM : M.G.SEWLIKAR, J.

DATE: 10th December, 2021

PER COURT:-

1. Heard Smt.S.P.Chate, learned counsel for the applicant, Shri G.O.Wattamwar, learned APP for respondent No.1 and Smt.Ashwini Lomte, learned counsel for respondent No.2.
2. Applicant is 30 years of age. Victim was 13 years of age at the time of incident. Report is lodged by the mother of the victim alleging therein that victim is a special child. Applicant took her to a secluded place and committed rape on her. Upon lodging the report, offence under Sections 376(3), 376(I) of the Indian Penal Code and under Sections 4, 6 and 12 of the Protection of the Children from Sexual Offences (POCSO) Act came to be registered.
3. Charge-sheet is filed.

4. Smt.Chate, learned counsel for the applicant submits that there is discrepancy as regards time of the incident. She submits that in the FIR time is mentioned as 09:30 a.m. whereas in the statement recorded under Section 164 of the Code of Criminal Procedure, victim has mentioned time as 03:00 p.m. She submits that this discrepancy shows that incident did not take place and applicant has been falsely implicated.

5. Shri Wattamwar, learned APP for respondent No.1 and Smt.Lomte, learned counsel for respondent No.2 submit that victim is 13 years of age. Applicant is a married man. He has ravished a special child that too a minor. They submit that medical evidence is against the applicant.

6. Charge-sheet is filed. On perusal of the papers annexed with the application and the charge-sheet, it appears that medical evidence is against the applicant. Hymen of the victim is ruptured. She has specifically stated that applicant committed rape on her. Undisputedly, victim is a special child. Victim is also a minor, which is not disputed by the applicant. In this view of the matter, this is not a case in which discretion can be exercised in favour of the applicant. Hence, the following order:

ORDER

(i) Application is dismissed.

(ii) Fees of the appointed counsel is quantified at Rs.5,000/- (Rs.Five thousand only). It is to be paid through the High Court Legal Services Authority, Sub-Committee, Aurangabad.

(M.G.SEWLIKAR)
JUDGE

SPT