

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

32 BAIL APPLICATION NO.630 OF 2021

PRAVIN CHAITRAM THAKARE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Desale Nilesh N.
APP for Respondents/State : Mr. S.D. Ghayal
...

CORAM : M.G. SEWLIKAR, J.
DATE : 6th September, 2021

ORDER:-

This is an application under Section 439 of the Cr.P.C. for releasing the applicant on bail in connection with Crime No. 118 of 2020 registered with Nizampur Police Station, District Dhule under Section 376 (f) (n), 312, 313, 323, 506 of the I.P.C. of the I.P.C.

2. It is the prosecution case that the applicant is alleged to be distant uncle of the informant/victim. About one and half years before the incident the applicant had sexual intercourse with the informant/victim. He used to threaten her that he would kill her. He had sexual intercourse with her five to six times. The applicant remained pregnant. On 12.11.2020, the applicant gave one pill for swallowing which she refused but he forcibly administered it

to her stating that by consuming this pill foetus will be aborted. Again he forcibly administered the said tablet to her. On 15.11.2020, the informant started having stomach ache. When she was asked, she told her parents about the incident. She started bleeding and the foetus came out. On these allegations FIR came to be lodged against the applicant. On the basis of which aforesaid crime came to be registered against him.

3. Heard Shri Desale learned counsel for the applicant and Shri Ghayal learned APP for the State.

4. Shri Desale submitted that the applicant and the informant had love affair. Informant is major. In the statement recorded under Section 164 of the Cr.P.C. she has stated that she was in love with the applicant. He argued that the alleged sexual intercourse was with consent.

5. Learned APP Shri Ghayal submitted that the applicant had forcible sexual intercourse with her. The informant was not a consenting party. Therefore, there is clear evidence of rape.

6. Initially, POCSO Act was applied. Subsequently, it was found that the informant was major and was 21 years of age at the time of the incident, therefore, sections under POCSO Act were deleted. In the statement under Section 164 of the Cr.P.C. the informant has admitted that she was in love with

the applicant. Therefore, it cannot be said at this *prima facie* stage that the sexual intercourse was without her consent. Moreover, charge-sheet is filed. Applicant has no criminal antecedents. He will be available for trial. Since charge-sheet is filed, there is no question of tampering of evidence. In this view of the matter, case for bail is made out. Applicant can be released on bail by imposing stringent conditions. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.50,000/- with one solvent surety in the like amount, in connection with Crime No.118 of 2020 under Section 376 (f) (n), 312, 313, 323, 506 of the I.P.C. registered with Nizampur Police Station, District Dhule and on condition that he shall stay himself away from Taluka Sakri till the conclusion of the trial.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]