

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

BAIL APPLICATION NO.774 OF 2021

Vijay s/o Shrimant Toradkar ... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Shri V.R. Dhorde, Advocate for applicant
Shri S.N. Morampalle, A.G.P. for respondent No.1.
Ms A.A. Lomte, Advocate for respondent No.2 (appointed)
.....

CORAM : R. G. AVACHAT, J.

DATE : 13th DECEMBER, 2021

ORDER :

This is second application for bail. The applicant has been arrested in connection with Crime No.014/2019, registered at Lohara Police Station, District Osmanabad for the offences punishable under Sections 376(2)(d), 376(f), 376, 377, 376(2)(n) of the Indian Penal Code and under Sections 3, 4, 5(c), 5(d), 5(f), 5(i), 6, 7, 8, 12, 11(3), 11(4), 11(6) of the Protection of Children from Sexual Offences Act.

2. Heard. Perused the F.I.R., statement of the victim and the related papers.

3. Learned counsel for the applicant would submit that, the co-accused Joshi has been granted bail. His role in the alleged offence was more serious than one attributed to the applicant herein. He would further submit that, the applicant is behind the bars close to three years. He, therefore, urged for grant of bail.

4. The learned A.P.P. and learned counsel appointed to represent the respondent No.2 victim would, on the other hand, submit that, it is a serious offence. The applicant was serving as an Instructor with the Residential School, wherein the victim was admitted. The applicant took advantage of his position and helplessness of the victim. Both the learned counsel, therefore, urged for rejection of the application.

5. Considered the submissions advanced by the learned counsel. The F.I.R. has been lodged by the Principal of Dnyan Prabodhini Agricultural Technical School, Harali, Taluka Lohara, District Osmanabad. The F.I.R. is dated 17/1/2019. The averments therein are based on hear-say. A statement of the victim dated 17/1/2019 is, therefore, to be looked into. The victim was 16 years of age when her statement was recorded. It has been alleged therein that, in 2013, she had been to the house of her maternal aunt at

village Teerth, Taluka Tuljapur. She was sexually ravished there by the husband of the aunt, her uncle.

6. Dnyan Prabodhini is a Residential School. Victim was one of the students residing therein. She is somewhat mentally challenged. It is in her statement that, in the summer of 2018, the school Peon committed rape on her many a times. It is further alleged that, the applicant herein, by the end of the year 2017 and in the beginning of 2018, had called her to his house and made the victim apply her mouth to his private part. As such, the applicant is alleged to have had oral sex with her. It has further been alleged that, co-accused Joshi, who was looking after agricultural operations in the school, had called her to Room No.9 in Arogya Dham and committed sexual intercourse with her twice.

7. It is true that the offence is serious one. The fact is, however, that, the F.I.R. has been lodged in January 2019 of the offence allegedly committed by the applicant herein a year before. Co-accused Joshi, who is alleged to have committed rape of the victim, has been granted bail. The Court do not propose to compare the acts committed by the accused Joshi and the applicant herein. However, in view of accused Joshi having been granted bail, the applicant herein

also deserves to be enlarged on bail.

8. In view of the above, the application is allowed. The applicant be released on bail in connection with Crime No.014/2019, registered at Lohara Police Station, District Osmanabad for the offences punishable under Sections 376(2) (d), 376(f), 376, 377, 376(2)(n) of the Indian Penal Code and under Sections 3, 4, 5(c), 5(d), 5(f), 5(i), 6, 7, 8, 12, 11(3), 11(4), 11(6) of the Protection of Children from Sexual Offences Act on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

9. The applicant shall not tamper with the prosecution evidence.

10. Fees of learned counsel Ms Lomte is quantified at Rs.11,000/- (Rupees eleven thousand) to be paid by Legal Services Sub-Committee, High Court, Bench at Aurangabad.

**(R. G. AVACHAT)
JUDGE**

fmp/-