

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 895 OF 2021

Savitra Baburao Gadakh

Applicant

Versus

The State of Maharashtra

Respondent

Mr. R.R. Karpe, Advocate for the applicant.
Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 27th October, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 0195/2021 registered with Sangamner Taluka Police Station, Dist. Ahmednagar, for the offences punishable under Section 376 of the Indian Penal Code and under Section 3(2) of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.

2. Facts in brief are that informant is a lady of 45 years of age. She has two grown up daughters. Informant, since her

marriage, used to feel numbness in the head and palpitation in the chest. She had taken treatment but she did not get the desired results. About 5 years before the incident, brother of the informant had introduced the informant to the applicant stating that the applicant had divine powers and by chanting *Mantras*, he cured diseases. Applicant represented the informant and her husband that the informant was possessed by a ghost. Applicant gave the informant holy ash (*udi* and *angara*) and had advised her to drink it with water. Applicant demanded 2 quarters of McDonald liquor and Rs. 200/-. On 23rd April, 2021, at 7.30 pm, informant and her husband had been to the applicant with a box of eatables called Bhel, a box of Sambhaji Bidi and two quarters of McDonald liquor. A lot many people were present there. Informant met the applicant on 24th April, 2021 at 1.00 pm. Applicant administered liquor to the informant in the presence of her husband and her daughters. Thereafter he took her to a field away from his house and raped her. Applicant told her that she would be required to come twice to him. Informant repented herself on account of the incident and she wanted to commit suicide. She had made preparation for suicide and at that time, her husband noticed it and thereafter they decided to lodge First Information Report. Accordingly, First Information Report

came to be lodged on 10th May, 2021.

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

4. Learned counsel Shri Karpe submitted that there is no evidence to show that the applicant practices black magic. No witness is examined in that connection. He states that there is gross delay in lodging the complaint. No explanation is forthcoming for the delay. Since there is no evidence of practising black magic, it is difficult to accept that the informant had been to the applicant.

5. Learned APP submits that the informant has given details of the incident. Informant has no enmity with the applicant. She has no reason to falsely implicate the applicant.

6. From the First Information Report, it appears that informant had been visiting the applicant since five years prior to the incident. Except the alleged sole incident dated 24th April, 2021, there is no allegation nor there is any evidence to show that the applicant had tried to molest the informant. There is no evidence to

show that the applicant practices black magic. From First Information Report, it appears that the informant had gone to the applicant on 23rd April, 2021, but because of rush, she could meet the applicant only on 24th April, 2021 at 11.00 am. This shows that there were a lot many people who wanted to be treated by the applicant. However, no evidence in that regard is collected by the prosecution to show that the applicant practices black magic.

7. It is argued that bones, vermilion powder and turmeric powder were found in the house of the applicant. Learned APP submits that this is the evidence of practising black magic. At this prima facie stage, this cannot be considered to be a clinching evidence to indicate that the applicant was practising black magic. Chemical Analyser's report is not received to show that the bones were human bones.

8. Applicant has no criminal antecedents. This is his first offence. In view of this, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.60,000/- (Rs. Sixty Thousand) with one solvent surety in the like amount in connection with Crime No. 0195/2021 registered with Sangamner Taluka Police Station, Dist. Ahmednagar, for the offences punishable under Section 376 of the Indian Penal Code and under Section 3(2) of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.
- iii) Application is disposed of.
- iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge