

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1439 OF 2020

Datta s/o Rambhau Turup,
Age 24 years, Occupation Labour,
R/o Gawade Galli, Ganesh Par,
Parli Vaijnath Tq. Parli Vaijnath
Dist. Beed.

**...Applicant
(Original Accused No.3)**

VERSUS

The State of Maharashtra,
Through Sambhaji Nagar Police Station,
Tq. Parli Vaijnath Dist. Beed.

...Respondent

.....
Advocate for Applicant : Mr. V. D. Gunale
APP for Respondent-State : Ms. D. S. Jape
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 28-01-2021.

ORDER :

1. Present applicant has been arrested in connection with Crime No.281 of 2020, dated 25-08-2020, registered with Sambhaji Nagar Police Station, Parli Vaijnath Dist. Beed, for the offences punishable under Section 354-A, 354-D, 452, 336, 143, 149, 323, 504, 506, 188 of the Indian Penal Code, under Section 8 and 12 of The Protection of Children from Sexual Offences (POCSO) Act, 2012, Section 51 (1)(b) of the Disaster Management Act, 2005, Section 17 of the Maharashtra

Police Act, 1951 and Section 11 of the Maharashtra COVID-19 Regulation, 2020. He has filed this second application for bail under Section 439 of Code of Criminal Procedure.

2. It will not be out of place to mention here that applied had filed Bail Application No.1148 of 2020 earlier before this Court, however he has withdrawn it on 14-10-2020. It may be on the fact that charge-sheet came to be filed on 13-10-2020, that means after filing of the charge-sheet this is the first bail application filed by applicant under Section 439 of Code of Criminal Procedure.

3. Heard learned Advocate Mr. V. D. Gunale for applicant and learned Additional Public Prosecutor Ms. D. S. Jape for respondent-State.

4. It has been vehemently submitted on behalf of the applicant that applicant has been falsely implicated. Now the investigation is complete and the charge-sheet has been filed. There is no recovery at his instance. Except the stereotype statements of the family members of the informant, there is nothing against him. The co-accused are having criminal history but that will not come in his way. He is having permanent place of abode at Parli Vaijnath, and

therefore, there is no possibility of he getting absconding. Learned Advocate, therefore, canvassed for bail for the applicant.

5. The learned Additional Public Prosecutor strongly opposed the application. So also he pointed out that the Investigating Officer Chand Hamja Mendhake, Police Sub-Inspector attached to Sambhaji Nagar, Police Station, Parli Vaijnath Dist. Beed has filed detailed report. It says that statements of the witnesses have been recorded by him, however due to the terror of the present applicant and co-accused, some witnesses have not come forward. The co-accused, especially accused Periyar @ Pritam Rohidas Bansode and Santosh Baburao Indarkar at in company with each other. After the registration of the offence, there was an attempt to threaten the witnesses. Non-cognizable complaint has been registered against Rohidas Manik Bansode (Father of the accused Periyar @ Pritam Rohidas Bansode), Baburao Ajuba Indarkar (Father of the accused Santosh Baburao Indarkar), and Rambhau Turup (Father of the present applicant) on 25-08-2020 at about 11.00 a.m. Thereafter, on 05-11-2020 informant has also lodged non-cognizable complaint for giving threats to her and asking her to withdraw the complaint. All the accused persons had barged into the house of the informant

who is a minor. In fact the present applicant and Pritam Bansode used to follow the informant either by walk or on motorcycle and used to utter obscene words. Two weeks prior to the First Information Report, they had pulled hand of the informant and asked her to sit on their motorcycle. At about 02.00 a.m. on 25-08-2020, they had abused by sitting in front of the house of the informant. They had pelted stones on their house. When the mother of the informant opened the door to scold them, at that time the present applicant and three others unauthorizedly entered the house of the informant and touched the body of the informant and her elder sister with ill-intention. The informant has been threatened that she would be raped. If such heinous crime is alleged against the applicant, he deserves no sympathy. It is also pointed out by the learned Additional Public Prosecutor that two offences are pending against the present applicant with Parli City Police Station i.e. Crime No. 84 of 2017 for the offences punishable under Section 324, 323, 336, 504, 506 read with 34 of the Indian Penal Code and Crime No.159 of 2016 for the offences punishable under Section 324, 323, 504, 506 read with 34 of the Indian Penal Code. On these submissions, the learned Additional Public Prosecutor prayed for rejection of the application.

6. The information has been lodged by a girl aged 17. Already the contents of the First Information Report have been reproduced, and therefore, they are not repeated. The family members i.e. sisters, mother and grand-mother of the informant have made statements in support of the First Information Report. Further it is to be noted that the incident is stated to have taken place at 02.00 a.m. and under such circumstances except the family members, nobody else would be present inside the house, and therefore, they would be the best persons to state what has happened inside the house. Specific role is attributed to the present applicant. Further two offences are already pending against the present applicant which are against body. Therefore, possibility of tampering with the evidence cannot be ruled out since already non-cognizable complaints have been registered. The manner in which offence is stated to have been committed against the minor and her family members, and especially when except ladies no male member is in their family, such incidents will have to be viewed seriously. Therefore, the applicant deserves no sympathy, hence application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-