

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

926 BAIL APPLICATION NO.1158 OF 2021

VINOD MADHUKAR BHAWSAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicant : Shri Joydeep Chatterji

APP for Respondent No.1 : Shri S.W.Munde

Advocate for Respondent No.2 : Shri Himanshu A. Patankar

CORAM : M.G.SEWLIKAR, J.

DATE: 30th November, 2021

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for bail by a step-father, who committed rape on his step-daughter.

2. At the time of lodging of the First Information Report (FIR), age of the informant was 20 years. Mother of the informant performed second marriage with the applicant. At that time, informant was 13 years of age. Informant has a sister aged 6 years. This is the third marriage of the applicant. It appears from the FIR that there was smooth-sailing for a period of two years. Thereafter, applicant started touching the informant inappropriately. Informant did not approve of it and she had warned the applicant. However, applicant did not mend his ways.

3. It is further alleged that on 17th February, 2019, it was the 18th birthday of the informant. On that day applicant had forceful sexual intercourse with the informant. Applicant had threatened the informant that she, her mother and younger sister would be done away with if she shared this incident with anyone. In the month of September, 2019, informant had abdominal pain. She was examined by a Gynecologist. At that time, she shared with the Gynecologist about forceful sexual intercourse by applicant with her. She had shared this incident with mother of the applicant but she ignored it. On 23rd January, 2021 at 02:00 a.m., mother of the informant noticed that applicant and the informant were in compromising position. Mother of the informant slapped the applicant. Thereafter, informant was sent to Pune to maternal grandparents of the informant. Thereafter also applicant used to send romantic messages and romantic songs to the informant. Thereafter, she lodged FIR on 1st June 2021 on the basis of which Crime No.0154 of 2021 came to be registered with Ramanand Police Station, District Jalgaon, under Sections 323, 376, 504, 506 read with Section 34 of the Indian Penal Code and under Sections 12, 18 of the Protection of Children from Sexual Offences (POCSO) Act against the applicant.

4. Heard Shri Joydeep Chatterji, learned counsel for the applicant, Shri S.W.Munde, learned counsel for the respondent No.1-State and Shri H.A.Patankar, learned counsel for respondent No.2.

5. Shri Chatterji, learned counsel for the applicant submits that statement of mother shows that the intercourse was consensual. He further submits that there is delay of six months in lodging the FIR for which no explanation is forthcoming. He further submits that now the informant is at Pune and the applicant is at Jalgaon. Applicant's father is suffering from kidney decease. He is 80 years old and his mother is not in a position to take care of father of the applicant. He submits that considering this, applicant be released on bail.

6. Shri Munde, Learned APP for the respondent-State opposed the application.

7. Shri Patankar, learned counsel for respondent No.2 submits that applicant has criminal antecedents. This is third marriage of the applicant with the mother of the informant. He submits that after divorce with second wife of the applicant, applicant committed rape on second wife. She has lodged report against the applicant in the Police Station at Nagpur.

Shri Chatterji, learned counsel for the applicant invited attention of this Court to the order of the learned trial Court which shows that applicant was acquitted of this offence. Therefore, this aspect of the matter cannot be considered.

8. It is not in dispute that the applicant is the step-father of the informant. Section 376(2)(f) states sexual intercourse by a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman commits rape on such woman.

9. In the case at hand, applicant admittedly, is the step father of the informant. Therefore, he was in a position of trust of the informant. He is also a guardian. A father is expected to protect his daughter. Here is a father who has abused his position and had sexual intercourse with the informant and has audacity to say that it was consensual. This is not only immoral but illegal too. If applicant is released on bail, even if he is at Jalgaon, there is every likelihood of him to contact the informant and pressurize her. In such a situation, I am not inclined to release the applicant on bail. Hence, the order.

ORDER

i) Application is rejected.

**(M.G.SEWLIKAR)
JUDGE**