

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

907 BAIL APPLICATION NO.1521 OF 2020

PUJUS KANTILAL CHAKRAWARTI

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. N.V. Gaware, Advocate for the applicant

Mr. S.Y. Mahajan, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 02nd MARCH, 2021.

ORDER :

1 Present applicant has been arrested in connection with Crime No.936/2019 dated 02.10.2019 by Shirdi Police Station, Dist. Ahmednagar, for the offence punishable under Section 376(f), 323, 504 of the Indian Penal Code and under Section 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. He has prayed for bail under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Advocate Mr. N.V. Gaware for the applicant and learned APP Mr. S.Y. Mahajan for the respondent.

3 It has been vehemently submitted on behalf of the applicant that

the investigation is over and charge sheet is filed before the Special Judge bearing Special Case No.143/2019. It would take long time for the concerned Court to hold the trial. Applicant is aged 45. Applicant states that he has been falsely implicated in the alleged offence on account of some misconception and family feud. The applicant is behind bars since 02.10.2019 and is innocent person. The custody of the applicant is not necessary as the investigation is over and the charge sheet has been filed. Except the prosecutrix there is no other direct evidence. She appears to be tutored by her father. She was sent to Hyderabad by her parents to stay with applicant but now because of the family dispute he has been implicated.

4 Per contra, the learned APP strongly opposed the application and submitted that the applicant is aged 45. He is presumed to have every understanding capacity, but then the victim is minor. He has taken disadvantage of the innocence of the victim and committed sexual assault on her. The medical report of the victim supports the prosecution story. When there is sufficient evidence on record the applicant does not deserve any kind of sympathy.

5 Prosecutrix is the niece of the present applicant. She has categorically stated that her father had sent her to Hyderabad for education to stay along with the applicant. The applicant had taken admission for the

prosecutrix in the nearby school around 31.07.2019 and then on 04.08.2019 the first incident had happened at night time at about 11.00 p.m. at Hyderabad. However, she states that she was brought by the applicant to Shirdi on 28.09.2019 and when they were staying in one of the places at Shirdi, the applicant ravished her. Then, when he was taking her back to Hyderabad she could manage to give a call to her father, who in fact, resides at New Delhi. It appears that till they reach Manmad Railway Station the father had informed it to police and then the police had restrained the girl and applicant back to Manmad Railway Police Station and then was taken back to Shirdi Police Station. Her father came and then she has lodged the report. Important point to be noted is that the girl was only 13 years 10 months old. There is no reason to take any suspicion, at this stage, about the story, when the medico legal report is supporting the prosecution. There is also statement of the persons from Shirdi, where the girl and the applicant had halted. Therefore, when there is ample evidence against him, he does not deserve discretionary relief to be released on bail. He was not supposed to take disadvantage of the innocence of the innocent girl. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)