

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

**902 CRIMINAL APPLICATION NO.2449 OF 2020
IN
APEAL/44/2021 WITH APEAL/44/2021**

**MANOJ HARIHAR SHUKLA
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Ms. S.G. Chincholkar
(appointed Through Legal Aid Committee)
APP for Respondent/State : Mr. S.N. Moranpalle
Advocate for respondent No.2 : Mr. P.P. Mandlik
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CORAM : SURENDRA P. TAVADE, J.

DATE : 30th SEPTEMBER, 2021

PER COURT :

This is an application for grant of bail in Criminal Appeal No. 44 of 2021 for the offences punishable under Sections 376 (2)(i), 377, 342 of the Indian Penal Code and Section 5 (m) punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short "**POCSO Act**").

2. It is alleged that the appellant was arrested and tried for the offences punishable under Sections 376 (2)(i), 342, 506 of the Indian Penal Code and Section 5 (m) punishable under Section 6 of the POSCO Act. He was found guilty and convicted for the offences punishable under Sections 376 (2)(i), 377,

342 of Indian Penal Code and under Section 6 of the POCSO and is sentenced to suffer rigorous imprisonment for 20 (twenty) years and to pay a fine of Rs.1,00,000 (One Lakh).

3. It is contended that the applicant is falsely implicated in the crime. He is from Uttar Pradesh. He is in jail since 13.05.2017. It is contended that the applicant be released on bail on any condition. It is prayed that there is delay in lodging the First Information Report. The evidence led by the respondent-State is not sufficient to hold him guilty and, therefore, he be released on bail.

4. Learned A.P.P. submits that the evidence of the victim and her mother is sufficient, which proves the offence against the applicant, therefore, there is no need to release the applicant on bail.

5. Heard learned counsel for the applicant, learned A.P.P. on behalf of respondent No.1-State and Mr. P.P. Mandlik, appointed learned counsel for respondent No.2. Perused the evidence of the witnesses.

6. It appears that at the time of incident the victim was aged about 6½ years. She has categorically stated that in the fateful night, she had taken dinner

and she came out of the home. One uncle offered her chocolate which she refused. The said uncle caught hold of her hand and took her inside his room. In the mean time, there were oral calls of her mother and, thereafter, the said uncle switched-on the light of his room and opened the door. The said uncle threatened her that she shall not disclose alleged act to anybody else. Then she came out of the said house. Her mother took her to the room and, thereafter, she was taken to hospital. It is found that she had suffered bleeding injury on her anus. The victim identified the accused-applicant.

7. The similar evidence is given by the mother of victim and deposed against the respondent-accused. She deposed that on 11.05.2017, after finishing her food, she came out of house at 10:30 p.m. and called the victim, but she was not found. She then took search of the victim. When she was returning, she found that the lights in the room of applicant-accused was switched-on. Then she saw from the window inside the room. The applicant opened the door of said room. Thereafter, she took her daughter to her house. Her cloths were found with blood stains. Then she had taken to the hospital. The victim and her mother described the incident which was taken place. The evidence of victim corroborated with medical evidence. Similarly, offence was proved against the applicant.

As per the case of prosecution, considering the age of victim and also the alleged incident, no case is made out to release the appellant-applicant on bail.

In view of above discussion, the application is liable to be rejected. Hence, it is rejected.

(SURENDRA P. TAVADE, J.)

SRM/30/09/21