

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 148 OF 2020

Mohan Devtadin Kanojiya

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Sandesh D. Patil i/b. Ms. Divya A. Pawar/Patil, Advocate for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 8th MARCH, 2021.

PC :

1. This is an application for bail in connection with C.R. No. 204 of 2019, registered with Bazarpeth Police Station, for the offences punishable under Sections 376(2) (i) (l) of Indian Penal Code, 1860. Section 4, 5 and 6 of POCSO Act.

2. The victim is a girl aged about 14 years. The case of the prosecution is that the accused subjected her to sexual intercourse. The statement of the victim were recorded under Sections 161 and 164 of Cr.PC. She has attributed role to the applicant, having committed the alleged offence.

3. Learned counsel for the applicant submitted that although it is alleged by the prosecution that the victim is suffering

from mental illness, the medical evidence is contrary. It is the case of the prosecution that the victim was pregnant but the medical opinion states that she is not pregnant. The history provided by her, mention that several persons had sexually assaulted her. Medical evidence does not support the prosecution case.

4. Learned APP submitted that there is strong evidence against the applicant. The discrepancies if any are to be considered at the stage of trial. The age of victim is required to be considered. Specific role is attributed to the applicant. Statements of victim recorded under Section 161 and 164 of Cr.PC cannot be discarded at this stage.

5. I have perused the investigation papers. The victim is a girl aged about 14 years. Specific role has been attributed to the applicant, having sexually assaulted. There is no reason for the victim to falsely implicate the applicant. The statement of the victim under Section 161 and 164 of Cr. PC is specific. The examination of the victim indicate that there were old hymen tear which supports the prosecution's case that she was subjected to sexual assault. Considering the material on record, no case for grant of bail is made out.

ORDER

- i) Bail Application No. 148 of 2020, is rejected;
- ii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)