

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

CRIMINAL BAIL APPLICATION NO. 457 OF 2021

Sindhu Baban Guldagad	 Applicant
Versus	
The State of Maharashtra	 Respondent

Smt. Vrushali Maindad a/w. Shaheen Kapadia for Applicant.
Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking her release on bail in connection with C.R.No. 886 of 2019 registered with Yavat police station, Pune, under sections 363, 376, 366(A), 344 and 506 r/w. 34 of the Indian Penal Code (for short 'IPC'), under sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act, 2012, under sections 3(1)(r)(s)(w), 3(2)(a) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 and under section 7(1)(d) of Protection of Civil Rights Act, 1955.
2. Heard Smt. Vrushali Maindad, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Ashok Bhil on 17/10/2019. One of the victims was his daughter aged 17 years and other other was his daughter in law's sister who was 15 years and 5 months of age on the date of lodging of F.I.R. Both of them were residing with the first informant. Both of them went missing from the night between 16/10/2019 and 17/10/2019. According to the first informant, somebody had either abducted them or induced them to go away from his lawful custody. On this basis the F.I.R. was lodged initially under section 363 of IPC. Subsequently, the investigation was carried out and other sections as mentioned earlier were added.

4. The applicant was arrested on 21/12/2019 and since then she is in custody. The investigation is over and the charge-sheet is filed.

5. Learned counsel for the applicant submitted that the elder of the victims is still residing with the main accused and, therefore, some leniency may be shown to the present applicant. She submitted that, both victims had left their house out of their own free will and, therefore, others cannot be held responsible for

that. In any case, the applicant is paternal aunt of the main accused and, therefore, she should not be penalised for the offence committed by him.

6. Learned APP opposed this application and relied on the statements of two victims.

7. I have considered these submissions. The victims have given their statements on two occasions. On the first occasion, their statements were recorded under section 161 of Cr.p.c. on 20/12/2019 and on the second occasion, their statements were recorded under section 164 of Cr.p.c. on 30/12/2019. Both victims in their statements recorded under section 161 of Cr.p.c. have stated that, elder of the victims was having relations with the main accused Anil. At his instance, both of them went with him towards Vagalwadi. They travelled on one motorcycle. Both the victims were taken to the applicant's house. Their statements go on mentioning that the applicant then kept watch on the victims and kept them in confinement. The main accused Anil used to establish physical relations with both the victims. The younger of the victims was overpowered and she was also raped by the main accused

Anil. To that extent, the statements of both these victims are consistent. The applicant had actively supported the main accused in all this. On one occasion, somehow the younger victim rescued herself. She escaped and then by seeking help, approached her parents and then police.

8. In their statements under section 164 of Cr.p.c. the elder of the victims has not supported the prosecution case. She has resiled from her own statement. She has stated that, out of their own free will they stayed in the house of the present applicant. However, younger of the victims was 15 years of age and has stuck to her story and she has narrated how she was raped by the main accused Anil and his cousin and as to how the applicant actively helped the main accused in this offence. In view of this statement, there is sufficient material against the present applicant. The offence is quite serious. No leniency can be shown to the present applicant. There is no merit in the application.

9. The application is rejected.

(SARANG V. KOTWAL, J.)