

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

CRIMINAL BAIL APPLICATION NO.896 OF 2021

Suraj Mahadev Chavan Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. D.D. Rananaware, Advocate for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 08th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.92/2020 registered at Shirval police station, District-Satara under Sections 376(2)(n), 506 of the Indian Penal Code and under Sections 4, 5 and 6 of the Protection of Children from Sexual Offences Act.

2. The applicant was arrested on 12.5.2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

3. The FIR is lodged by the prosecutrix herself. She has stated in her FIR that she was 13 years, 6 months and 11 days old on the day of lodging of the FIR. She has given her birth date as 30.10.2006. She lodged her FIR on 11.5.2020. She has stated that on 29.9.2019, the Applicant called her to his house on some pretext. He asked the prosecutrix to make bread for him. When the prosecutrix was making bread for him, he closed the door of his room and committed rape on her. This incident was repeated on 2-3 occasions under threats. In the month of May, 2020 she had pains in her stomach. Therefore, her mother took her to Doctor. She was advised to undergo Sonography test, but, it was not done and instead the FIR was lodged.

4. Heard Shri D.D. Rananaware, learned Counsel for the Applicant and Ms. Pallavi Dabholkar, learned APP for the State.

5. Learned Counsel for the Applicant submitted that the prosecutrix came to know about her pregnancy in the month of May, 2020 and she delivered her child in June,

2020. It is impossible that anybody in her family did not notice about her pregnancy during the entire period till she delivered the child. He submitted that the medical report shows that according to the radio-logical test, she is between 15 and 18 years of age. There is a possibility of consensual relationship and, therefore, the Applicant deserves to be released on bail.

6. Learned A.P.P. opposed this application. She submitted that the school leaving certificate shows her birth date as 30.10.2006. She submitted that even as per the medical examination, she was still below 18 years of age. Therefore, her consent is immaterial.

7. I have considered these submissions. Apart from the FIR, the victim's statement is recorded under Section 164 of Cr.P.C.. There also she has stuck to her story. Her version is further supported by her mother, whose statements are recorded under Section 164 of Cr.P.C. as well as under Section 161 of Cr.P.C.. The Applicant is 26 years of age. Therefore, at this stage, there is no question of showing any leniency on

the assumption that there could be a love affair between the informant and the Applicant. The offence is serious.

8. In this view of the matter, no case for grant of bail is made out. The Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)