

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 754 OF 2020**

Chetan Nana Patil ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Kishor D. Walanju, Advocate for the Applicant.

Mrs. M. R. Tidke, APP for the Respondent – State.

Mr. S. S. Chaudhari, P. N, Mokhada Police Station, Palghar.

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CORAM : PRAKASH D. NAIK, J.

DATE : 12th March, 2021.

PC :

1. This is an application for bail in connection with C.R. No. 29 of 2019 registered with Mokhada Police Station, Palghar for the offences punishable under Section 376 of IPC and under Sections 5 (j) (2), 5 (1), 6 of POCSO Act.

2. The case of the prosecution is that the victim girl aged about 11 years was subjected to penetrative sexual assault by the applicant. The complaint was lodged by the mother of victim. The statement of the victim was recorded under Sections 161 and 164 of Cr.PC. The victim has attributed the role of penetrative sexual assault to the applicant. The applicant was arrested. Charge-sheet is filed.

3. Learned Advocate for the applicant submitted that the applicant is in custody for substantial period of time. He has no other criminal antecedents. Medical evidence does not support the case of

the prosecution. He may be released on terms and condition. He relied upon the Judgment of Supreme Court in the case of **Babu Singh and others V/s. State of U.P. (1978) SCC 579.**

4. Learned APP submitted that the version of the victim recorded under Sections 161 and 164, cannot be brushed aside at this stage. The victim is aged about 11 years. Specific overtact of sexual assault is attributed to the applicant.

5. On perusal of the statement of complainant and victim, it is apparent that the role of penetrative assault has been attributed to the applicant. The victim is a girl aged about 11 years at the time of incident. There is no reason to doubt the version of the victim. The medical evidence refers to injuries. Learned counsel for the applicant however submits that the victim was examined after 5 days, hence this injury cannot be attributed to the alleged sexual assault by the applicant. This submission cannot be accepted at this stage. No case for grant of bail is made out.

ORDER

Bail Application stands rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)