

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

BAIL APPLICATION NO. 780 OF 2020

Janu Kisan Sable	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Yashpal Thakur i/b. Mr. Prashant Sarwankar, Advocate for the Applicant.

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

Mr. Y. B. Kadam, (P. S. I.) Wadala Police Station, Mumbai, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th MARCH, 2021

PER COURT:

1. This is an application for bail in C.R. No. 119 of 2019 registered with Wadala Police Station, Mumbai for offence under Section 376(2)(f) of Indian Penal Code and Sections 6 & 10 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The applicant was arrested on 20th June, 2019.

2. The case of the prosecution is that the accused is relative of the victim. She is aged about 16 years. In 2017, repairs of victim's house were carried out. At that time, victim and her elder sister used to sleep in the house of their aunt. Husband of aunt (applicant) used to touch her chest and private part. She had disclosed this fact to her elder sister. Victim has stopped visiting house of applicant. In March,

2019 complainant's parents and aunt had gone to Matunga to visit another aunt. The victims' grand mother sent her to house of applicant with meal. She visited his house. Accused was alone at home. He closed the door and caught her. He pressed her mouth. The accused committed forceful sexual intercourse with her. She did not disclose incident to anyone. Victim did not get her menstrual period. She was examined by doctor. It was found that she was pregnant.

3. It is submitted that the specific date of incident has not been mentioned in the FIR. The applicant has been falsely implicated in this case. From the tenor of the statement of the victim recorded under Sections 161 & 164 of Cr.PC, there is reason to believe that the applicant has been falsely implicated in this case. There is delay in lodging FIR. The victim had liking for Gulam Rehan which is apparent from the statement of the other witnesses. He had brought the medicine which was given to the victim. The statement of the pharmacist mentions that Rehan had visited the shop and had disclosed that medicine is required for his wife. The medical examination does not support the prosecution case. D.N.A. do not support prosecution. Learned APP submitted that victim was minor. Applicant is her relative. Version of victim cannot be discarded.

4. It is pertinent to note that the victim was girl aged about 16 years. The applicant is her relative aged about 45 years. At this stage there is no reason to disbelieve the version of the victim. The arguments advanced by the learned counsel for the applicant are in the nature of the appreciation of evidence cannot be considered at this stage. Prima facie case is made out against the applicant. Hence, no case for grant of bail is made out.

ORDER

- i) Criminal Bail Application No. 780 of 2020 is rejected and disposed of accordingly.
- ii) Trial is expedited.

(PRAKASH D. NAIK, J.)