

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1094 OF 2021

Yash Sanjeev Agarwal

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.S.V.Marwadi with Mr.N.M.Nadar i/by Ms.Trupti Khamkar for applicant.

Mr.H.J.Dedhia, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th June 2021

PC :

1. The applicant is seeking bail in CR No.517 of 2020 registered with Amboli Police Station for offences under Sections 376, 323, 506 of Indian Penal Code and under Sections 4 and 8 of Protection of Children from Sexual Offences Act, 2012. The applicant was arrested on 15th December 2020.

2. The intimation about hearing of this application was given through the concerned Police Station to the victim/complainant. The Senior Inspector of Police had tendered copy of communication dated 10th May 2021. Same is taken on record and marked "X" for identification.

3. The prosecution case is that the victim is a student of 12th standard. She got acquainted with the applicant about four months prior to the alleged incident. They became friends on Snap Chat. The victim met applicant on four to five times. The applicant

expressed his love for her. On 11th December 2020 the applicant called the victim at the place of residence. He established physical relationship with her without her consent. She protested. The applicant threatened her that she should not disclose the incident to anyone. The victim thereafter disclosed the incident to her grandmother and aunt and the FIR was lodged on 15th December 2020.

4. Learned counsel for applicant submitted that the applicant is young boy aged about 21 years. He is a student. He has been falsely implicated in this case. The tenor of the FIR indicate that the applicant and the victim were closely acquainted with each other. They were closed friends. They have met prior to the alleged incident. The victim has allegedly accompanied the applicant at his residential premises. Medical examination of the victim indicate that there was no injuries on the person of the victim to infer that she was forcibly sexually assaulted. Assuming that allegations are true, circumstances would infer that possibility of consensual act cannot be ruled out. There are no criminal antecedents against the applicant. He is in custody for a period of about six months.

5. Learned APP submits that victim was minor. Her version cannot be discarded at this stage. Medical evidence supports prosecution case.

6. The Victim is aged about 17 years 11 months and 10 days at the time of incident. The FIR mentions that she got acquainted with the applicant about four months ago. They met on 3 to 4 occasions prior to the alleged incident. She had accompanied the accused at

the place of his residence. The accused has initially expressed that he was in love with her. Both had become friends. This is not the stage to opine any finding on the prosecution case. Possibility of consensual act cannot be ruled out. However, considering the factual aspects, further detention of the applicant is not necessary. Hence, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.517 of 2020 registered with Amboli Police Station, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not approach the victim or any of her family members, and shall not enter into the vicinity where the the victim resides;
- (iv) The applicant shall not contact the victim on cell phone or by any other manner;
- (v) The applicant shall report Amboli Police Station once in three months on first Saturday of the month between 11 am and 1 pm till further orders;
- (vi) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for eight weeks in lieu of sureties.

(PRAKASH D. NAIK, J.)

MST