

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

CRIMINAL APPEAL NO.266 OF 2021

Shri Navnath Dattu Chavan ... Petitioner

Vs.

State of Maharashtra & another ... Respondents

Mr.Rajesh More for the Appellant

Mr.K.V. Saste, APP, for Respondent – State

Mr.S.R. Phanse, advocate appointed for Respondent No.2

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

**JUDGMENT RESERVED ON: JULY 19, 2021
JUDGMENT PRONOUNCED ON: JULY 27, 2021**

JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally.
2. This Appeal takes an exception to the order dated 3rd September, 2020 below exhibit 8 in Bail Application No.259 of 2019 passed by the learned Additional Sessions Judge, Pune thereby rejecting the prayer of the appellant to release him on regular bail in connection with C.R. No.47 of 2019 registered with Talegaon MIDC police station.

3. Learned Counsel appearing for the appellant invited the attention of this Court to the allegations in the First Information Report and submitted that the said allegations are false and concocted. Though the alleged incident had taken place on 28th January, 2019, the First Information Report had been lodged belatedly on 8th March, 2019. It is submitted that the injury shown in the medical report is fresh. If the incident had taken place way back on 28th January, 2019 and the victim was medically examined on 9th March, 2019, there cannot be a fresh abrasion/injury. It is submitted that there is a previous enmity and to seek revenge, First Information Report has been lodged. The learned Counsel submitted that the appellant is in jail since his arrest for a considerable period of time and, therefore, the appellant deserves to be released on bail.

4. On the other hand, the learned APP invites attention of this Court to the allegations in the First Information Report and also the medical evidence and submits that the appellant has committed heinous offence and keeping in view the stringent provisions of the Protection of Children from Sexual Offences Act, 2012, the

appellant does not deserve to be released on bail. In case he is released on bail, he may tamper with the prosecution witnesses and evidence.

5. We have given careful consideration to the submissions advanced by the learned advocate appearing for the appellant and the learned APP appearing for the Respondent – State. We have carefully perused the allegations in the First Information Report so also the medical report placed on record. It is true that the alleged incident had occurred on 28th January, 2019 and the First Information Report has been lodged on 7th March, 2019. It is only on 7th March, 2019, when the son of the informant, at the relevant time aged 10 years, disclosed the informant that the present appellant, who is residing in the adjoining house had asked the victim to accompany him and he will teach him how to drive the vehicle. Since he was not ready, the appellant abused him. It is stated in the First Information Report that the son of the informant was seen in a frightened condition and then, he narrated the earlier incident dated 28th January, 2019 at 7pm. Upon a careful perusal of the allegations in relation to the said incident, in our opinion, there cannot be slightest doubt in the mind that the

alleged incident is heinous in nature and at the relevant time, the victim was minor, 10 years old. It is stated by the victim in his statement recorded on 8th March, 2019 that he did not disclose the incident to his parents since he was scared of the accused. However, he immediately stated about the said incident to his friends Sahil Kamble, Paras Chavan and Ajinkya Chavan. The prosecution has also produced on record medical examination report of the victim in which it is stated that the alleged offence had occurred and disclosed the nature of injuries suffered by the victim. We have carefully perused the provisions of sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and keeping in view the allegations made in the First Information Report, we are of the opinion that the ingredients of the said alleged offence are attracted and consequently, the alleged offence has been prima facie disclosed.

6. The age of the victim is about 12 years. The appellant has stated in the First Information Report that the appellant is residing in the adjoining house of the informant. In that view of the matter, mere delay in lodging the First Information Report itself would not be sufficient to release the appellant on bail. As already observed,

the victim boy has stated that he was scared of the accused and, therefore, out of fear, he did not disclose the incident to his parents. However, he had immediately disclosed about the incident to his friends. Keeping in view the discussion in the foregoing paragraphs and the apprehension that in case, the appellant is released on bail, he may tamper with the prosecution witnesses and evidence, we are not inclined to entertain this appeal since the alleged offence is very heinous in nature which would attract the provisions of sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.

7. In that view of the matter, the Appeal stands dismissed.

8. We direct the Special Court to expedite the trial and take it to a logical end within a period of six months from today. In case, the trial is not concluded within six months from today, we grant liberty to the appellant to revive his prayer for bail.

9. Rule stands discharged accordingly.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)