

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1998 OF 2021

Ganesh Bhosale

.. Applicant

Versus

The State of Maharashtra

.. Respondent

...

Mr.Prachiti Deshpande for the applicant.

Ms.Seema Singh for respondent no.2.

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

Police Naik B.No. 2575 Shashikant Khopade from Vadgaon
Maval police station present.

CORAM: BHARATI DANGRE, J.

DATED : 4th AUGUST, 2021

P.C:-

1 The applicant is charge-sheeted in C.R.No. 494 of 2020 registered with Vadgaon Maval police station for the offence punishable under Section 376A, 323, 504, 506 of the IPC and Sections 5, 6, 9 and 10 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). He seek his release on bail on being arrested in the said C.R on the ground that the applicant is falsely implicated as there was a love relationship shared by him with the applicant.

2 The FIR was lodged by the mother of the victim, aged 16 years alleging that on 31st October 2020, the victim had gone to her work place, the petrol pump for carrying her daily

chore of cleaning. She left at 6.00 am in the morning and did not return till the evening and when search was carried out, it was informed that she left the petrol pump. Missing complaint was to be lodged.

The victim girl was traced at Talegaon and she was brought to Vadgaon police station where she disclosed that she was in love with the applicant and due to quarrel with him, she had left the house being angry. When the mother further inquired, it was revealed that there was a love affair between the two and while she was cleaning the cabin of the petrol pump, he committed sex with her and clicked photographs in his mobile. When asked to delete the photos, he abused her and threatened her that she should not disclose the incident to any person, otherwise he would make the photographs public. On this threat, it is narrated by the victim that the applicant committed sexual intercourse with her five times in the cabin and at his residential house. Taking advantage of this, one Raju – co-accused also committed forcible sexual intercourse with her on the pretext that when she can permit Ganesh to indulge, she should allow him to have sex with her.

3 Admittedly, the victim girl is minor, her date of birth being 20th September 2005. She was subjected to medical examination on 2nd November 2020 where the history of non-consensual sex is reported. Reference is made to 5 to 6 episodes

of non-consensual forceful vaginal penetration by blackmailing the victim. The report disclose rupture hymen with multiple old healed hymen tear present. The final opinion establish evidence of vaginal penetration with no fresh physical injury. The medical report support the version of the prosecutrix.

4 The victim girl on the date of incident is 16 years old and the charge-sheet clearly reflect that the applicant along with the co-accused have taken advantage of her situation, particularly the applicant who on the pretext of being in love with her, had committed forcible sexual intercourse on more than one occasion. The consent of the minor girl is immaterial and what is unfortunate is that since the applicant committed forcible intercourse with the prosecutrix, co-accused also took advantage of the same situation and forced himself upon her. The statement of the applicant that there was love affair, do not warrant any significance as being in love with the girl do not mean that he has a right to have sex with her.

Application is rejected.

SMT. BHARATI DANGRE, J