

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

BAIL APPLICATION NO.2514 OF 2021

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Premshankar Jethashankar Mishraj Applicant

Vs.

The State of Maharashtra Respondent

Mr. Sunny A. Waskar for Applicant.
Mrs. Rutuja Ambekar, APP for State

Coram : NITIN W. SAMBRE, J.
Date : 6th OCTOBER, 2021

P.C.:

1. In Crime No.575 of 2019, registered at Borivali Police Station, for the offence punishable under Sections 363, 376(2)(L) of the Indian Penal Code, the applicant was arrested on 14th October, 2019 and was charge-sheeted.

2. Case of the prosecution is, the applicant, who was residing on 7th Floor of "D" Wing of Siddhivinayak Society, Borivali forcibly took victim, a mentally challenged girl and committed an act of sexual assault.

3. Counsel for the applicant submits that the applicant is entitled to be released on bail as he is falsely implicated in the crime so also the prosecution case does not establish his prima facie involvement in the crime.

4. Learned APP submits that the application is liable to be rejected as there is sufficient material available on record.

5. Considered submissions.

6. The complaint is lodged by the mother of victim on 14th October, 2019 contending that the alleged incident of sexual assault took place at around 9.00 am.

7. The victim's statement was recorded by specially trained teacher on 15th October, 2021 and the victim in the said statement has said only about the incident, which is punishable under Section 354 of Indian Penal Code.

8. Apart from above, medical certificate of the victim supports the prosecution story of likely sexual assault, however, no injuries are noticed either on the body of the victim or her private parts.

9. Though it is claimed that the clothes which were seized from victim's body were having certain stains, however, seizure memo does not speak of the same. Considering the nature of offence as alleged, the spot of the incident and aforesaid material i.e. the statement of victim recorded by the special teacher not supporting the case punishable under Section 376 of the Indian Penal Code, in my opinion, a case for grant of bail is made out.

10. The application is allowed on following terms and conditions :

ORDER

(i) The applicant be released on bail in Crime No. 575 of 2019, registered at Borivali Police Station, for the offence punishable under Sections 363, 376(2)(L) of the Indian Penal Code, on furnishing P.R.

bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(ii) The applicant shall neither influence the prosecution witnesses in any manner nor tamper with the evidence or shall not in any way try to establish contact with the victim or her family members.

(NITIN W. SAMBRE, J.)