

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2309 OF 2021

Pravin Anil Nagpure,]
R/at Patole Galli, Sutaracha Paar, Yeola, Tal.]
Yeola, Dist. Nashik.]
[Presently at Central Prison, Nashik.]] ... Applicant

Versus

1. The State of Maharashtra]
[Through Adgaon Police Police Station,]
Nashik]
2. Shrikant Bhikan Nagpure,]
R/at, Flat No.11, Sai Siddhi Apartment,]
S.T. Colony, Neat Adgaon Police Station,]
Amrut Dham, Nashik, - 422 003.]
3. XYZ,]
R/at. Flat No.11, Sai Siddhi Apartment,]
S.T. Colony, Neat Adgaon Police Station,]
Amrut Dham, Nashik, - 422 003.] ... Respondents

...

Mr. Vaibhav D. Kadam for the Applicant.

Ms. Avanti M. Inamdar for Respondent Nos.2 and 3.

Ms. Rutuja Ambekar, A.P.P. for the State.

...

CORAM : MRS. BHARATI DANGRE, J.

RESERVED ON : 13TH AUGUST, 2021.

PRONOUNCED ON : 18TH AUGUST, 2021.

ORDER:-

1. The Applicant is arraigned as an accused in C.R. No.I-66 of 2021 registered with Adgaon Police Station, Nashik, thereby invoking Sections 363 and 376 of the Indian Penal Code read with Sections 4 and 8 of the Protection of Child from Sexual Offences Act. The Applicant came to be arrested on 01/05/2021 in the said C.R. and by this application, he is seeking his release on bail, since his prayer is rejected by the Additional Sessions Judge, Nashik on 25/05/2021.

2. The victim, aged 16 years and 9 months, was impleaded as Respondent No.2 and is represented by a counsel, who is also heard along with learned A.P.P.

3. On 29/04/2021, the father of the victim, approached the police station stating that on 03/04/2021, his minor daughter has left home on the ground that she is visiting Dandhiwala Hospital, Nashik for work purpose and she did not return till lodging of the complaint i.e. till 29/04/2021. The Complainant alleges that she is

enticed by unknown persons. This resulted in registration of C.R. No.I-66 of 2021 under Section 363 of the IPC. During the course of investigation, it was revealed that the victim girl was in the company of one Biplav Kumar (Accused No.3) and, with the assistance of Accused No.2 Hemant Nyaharkar, his friend, Accused No.3 was confronted with the situation of enticing the girl, who was a minor and based on the mobile location of her phone, the victim girl was traced, but Accused No.3 managed to escape.

4. The victim girl's statement came to be recorded, wherein she implicated the present Applicant and Hemant Nyaharkar, a friend of her father. In her statement, the victim girl levelled allegations against Accused Nos.1 and 2 and as far as the present Applicant is concerned, she alleges that in the year 2019, she was approached by her cousin uncle i.e. the present Applicant and he had forcibly committed sexual intercourse with her on the pretext that he had captured her nude photographs and, if she does not permit to establish physical relationship, he will make them viral. The victim girl discloses that she did not inform about this incident to anyone, though it took place in the year 2019. Similar is the allegation made against Accused No.2 of forcing himself upon her in the month of June, 2020.

5. In her statement recorded on 30/04/2021, she states that she was close to one Biplav Kumar (Accused No.3), a resident of

Ranchi, Jharkhand, who had supported her when she narrated her sexual exploitation at the instance of Accused Nos.1 and 2. She states that when she narrated the incident to her mother, she did not take cognizance and, on the contrary, she had beaten her and, therefore, on 02/03/2021, she left her house. Thereafter, she started residing with Accused No.3 by hiring a room where he had established physical relationship with her. Thereafter, she started residing in a room separately. The victim girl consented for being medically examined. The medical examination records multiple healed tears about 7, 8, 4 and 1 O' Clock position. The medical examination is conducted on 30/04/2021 and the history is recorded as "*Absconded from home on duration of 2/4/2021 to 29/4/2021. H/o. Sexual Assault & Intercourse on duration from 2018 to April 2021*".

6. The father of the victim has placed on record an affidavit, wherein he referred to the missing complaint and that his daughter was traced in the company of Accused No.3 and, in the whole venture of tracing his daughter, he was rendered assistance by Accused Nos.1 and 2 and that his daughter was aggrieved as Accused No.3 left her company and the victim attributed their parting, to Accused Nos.1 and 2. This is also the submission of learned counsel for Respondent No.2 and the said affidavit, which is filed, is on record.

7. The Applicant is arrested in connection with the said C.R.

and is presently incarcerated. Perusal of the statement of the victim girl would reveal that she did not give any details about the accusations which she has levelled against the present Applicant and merely referred to the sexual assault at his instance in 2019. As per her own say, no complaint was ever lodged by her about the said incident nor did she narrate the incident to her parents. The victim has categorically admitted that she left her house and continued to stay with Accused No.3, who had established physical relationship with her and, thereafter, he had left the room. Since the girl expressed that she did not want to stay with her parents, she was taken to the children's home. She has stated that she was introduced to Accused No.3 and was in love with him and, in fact, she wanted to marry Accused No.3 but since she was a minor, she could not perform the marriage and Accused No.3 had assured her that once she attains majority, he is likely to marry her. The medical examination of the victim girl records sexual indulgence which is attributed to Accused No.3.

8. Vague allegations are levelled against the present Applicant about sexual assault. No details are given in her statement nor there is any explanation for the delay.

9. His bail application is rejected by the Additional Sessions Judge, Nashik on the ground that custodial interrogation is very much necessary. The Applicant is now seeking his release on regular bail.

10. Taking into consideration, the nature of accusations levelled by the victim girl in the complaint and the affidavit of the Complainant placed on record, the Applicant cannot be kept incarcerated though he may face the trial on being charged for the offence and the prosecution leading some positive evidence pointing out his culpability. He is therefore entitled to be released on bail. Hence the following order:

ORDER

- (a) The Applicant – **Pravin Anil Nagpure**, shall be released on bail in C.R. No.I-66 of 2021 registered with Adgaon Police Station, District Nashik on executing P.R. bond to the extent of Rs.20,000/- and furnishing one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.
- (c) The Applicant shall not, in any way, establish contact with the victim girl.

11. The Application is allowed in the aforestated terms.
12. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]