

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1129 OF 2020

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Tilak

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Ganesh Tukaram Nevhal

.. Applicant

Versus

The State of Maharashtra

.. Respondents

...

Mr. Ravin Bhuttar with Sindhutai Mane i/b Shinde & Co. for the applicant.

Mr. S.V. Gavand, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 7th JANUARY 2021.

P.C:-

1 The applicant has been charge-sheeted for the offence punishable under Section 363, 366A, 376, 504, 506 of the IPC read with Sections 3, 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. FIR No. 51 of 2020 came to be registered with the police station on a complaint filed by the father of the victim girl Babasaheb. He referred to an incident dated 28th January 2020 and state that at 6.00 p.m, he accompanied his wife and daughter for cutting of the sugarcane in the field and while he was busy unloading the tractor, his daughter was engaged in the activity of cutting of the sugarcane.

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At that time, she disappeared and on search, when she was not found, the complaint came to be lodged initially invoking Section 363. The age of the victim girl was given as 14 years 5 months on the date of incident.

2 On 31st January 2020, the victim girl approached Shikrapur Police Station. Her statement came to be recorded. When specifically asked about the incident dated 28th January 2020, she corroborate with her father who had stated that she was present in the field and when she went to answer the call of nature, she met the present applicant. She has stated that he made her sit on a motor cycle and brought her to her aunt's place at Mauje Datakli, Taluka Shegaon. She also state that on 29th January 2020, he established physical relationship with her which was against her wishes. She continued to stay with him till 31st January 2021 and then came to the police station. After recording her statement, the custody of the victim girl was made over to her parents.

3 The statement of the victim girl came to be recorded under Section 164 of Cr.P.C on 16th June 2020. In her statement, she state that when she was working in the sugarcane field and went to answer the nature's call, Ganesh i.e. the present applicant approached her and he was accompanied by another person. She state that Ganesh forcibly made her sit on the

motorcycle on which he was a pillion rider and she was made to sit between the person driving the vehicle and the applicant. She was threatened that if she raise any voice, she would be killed. She was then taken to his aunt's place and inspite of her opposition, he forced himself upon her and ravished her. She has also alleged that the applicant had threatened her from time to time.

4 In the backdrop of this statement being recorded under Section 164 of the Cr.P.C, when the victim girl had specifically narrated that the applicant has committed forcible sexual intercourse with her and considering the fact that the age of the girl is below 16 years, and in law, the consent of minor girl is irrelevant, the submission of the learned counsel for the applicant that there was love relationship between the two, cannot be accepted. The earlier bail applications preferred by the applicant came to be rejected considering the fact that the victim was not of consenting age and there is nothing brought on record to establish that there was any love relationship between the two. Neither the history given at the time of medical examination of the victim girl pose so. In such circumstances, the application deserves to be rejected and is accordingly rejected.

SMT. BHARATI DANGRE, J