

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

BAIL APPLICATION NO. 1224 / 2020

Raju Chandan Tayde

.....Applicant

V/s.

The State of Maharashtra
and anr.

....Respondents

* * * *

Ms. Anjali Patil a/w. Mr. Arun Rajput, Advocate for the Applicant.

Mr. R.M. Pethe, APP for State-Respondent no.1.

Ms. Shabana Sothe i/by. Ms. Rupali Sawant, Advocate for respondent no.2.

PSI, Mr. Mithun Patil from Vakola Police Station and PSI Mr. Bhojane, from BKC Police Station are present.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 11th March, 2021.

P.C. :

1. Heard learned Counsel for the applicant, Counsel for the complainant and Mr. Pethe, learned APP for State.

2. Applicant seeks his enlargement on bail in connection with Crime No. 317/2019 registered with Vakola Police Station for the offences punishable under Sections 376(2)(i)(n) and 377 of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act” for short).

3. Applicant was arrested on 6th July, 2019. Investigation is over and chargesheet has been filed.

4. On 4th July, 2019, victim filed a report against the applicant. She alleged, applicant sexually assaulted her on 26th June, 2019 in a house belonging to one, Nisha Bansode. She stated that, she was born on 28th July, 2005 and after 6th Standard, she abandoned her schooling. She alleged that, applicant was stalking her while she was studying in the School. She alleged, applicant promised to marry her and on this pretext, sexually assaulted her on

two or three occasions. Be that as it may, after a report filed on 4th July, 2019, in the investigation, statement of Nisha Bansode was recorded on 31st July, 2019. Her statement shows, victim told her about the sexual assault by the applicant on 26th June, 2019 in her house . It appears from her statement that, soon thereafter, she accompanied the victim to lodge the complaint on 27th June, 2019, however, offence was not registered by the concerned duty officer. In the circumstances, to verify the veracity of her assertions, learned APP was requested to verify this fact.

4. In any case, learned APP, on instructions, submits that both, victim and the applicant, are living in one locality. The residence of the applicant is hardly 500 meters away from victim's home. In past, they had physical intimacy. In the backdrop of these facts, *prima-facie*, assertion of victim that, the applicant being a

Bachelor, had promised to marry her is not conceivable. That even otherwise, the allegations by the victim in the complaint that, she was sexually assaulted on the staircase of the building for multiple times is not conceivable. Be that as it may, today the learned APP has placed on record, the extract of the General Diary maintained at Vakola Police Station. A copy of the Diary is taken on record and marked "X-1" for identification. The brief facts narrated in the Diary show, *prima-facie*, false complaint has been lodged against the applicant at the instance of Nisha Bansode. The State is therefore directed to take cognizance of this fact and take appropriate action against Nisha Bansode. The brief facts noted in the Diary are as under :

. On 26th July, 2019 the victim and the applicant had been to the house of Nisha Bansode. They together consumed liquor. Whereafter disputes and differences arose between the applicant and Nisha over money lending transactions. Thereafter, Nisha Bansode asked the victim to lodge complaint against the

applicant. Victim thereafter went to the Police Station for lodging the complaint. The police had called victim's parents and brother. When enquired with them, the parents of the victim told that her daughter was not harassed by anyone".

. In view of narration on 28th June, 2019, the offence was not registered.

5. Thus, *prima-facie*, the facts of the case and the investigation on record suggest, Nisha Bansode persuaded the victim to lodge false complaint against the applicant to settle the personal scores. Prima-facie, it is abuse of law, meant to protect the interest of victims of sexual assault.

6. The applicant is in custody since July, 2019. In consideration of the facts of the case and for the reasons stated, the application is allowed. The application is directed to be released on bail and hence the following order :

ORDER

(i) The applicant arrested in Crime No. 317/2019 registered at Vakola Police Station, shall be released on bail on executing P.R. bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer as and when called and co-operate in the investigation.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the

complainant, witnesses or any person concerned with the case.

7. The State is directed to initiate and take appropriate action against Nisha Bansode.

8. The application is accordingly allowed and disposed off.

9. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

Neeta
S.
Sawant

Digitally
signed by
Neeta S.
Sawant
Date:
2021.03.11
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(SANDEEP K. SHINDE, J.)