

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1381 OF 2020

Sachin Jagannath Khandagale	Applicant
versus	
The State of Maharashtra	Respondent

Mr.V.S.Tiwari for applicant.

Mrs.M.R.Tidke, APP, for State.

API N.M.Chougule, Badlapur West Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th March 2021

PC :

1. This is an application for bail in CR No.203 of 2019 registered with Badlapur West Police Station for offences under Sections 376, 354, 354D, 341, 506 of Indian Penal Code, under Sections 8 and 12 of POCSO Act and under Section 142 of Maharashtra Police Act.

Manish
S. Thatte

Digitally signed by
Manish S. Thatte
Date: 2021.03.26
10:24:27 +0530

2. The complaint is lodged by victim herself on 24th September 2019. At the time of lodging the FIR, she is aged about 18 years. According to the complainant, the applicant-accused tried to get acquainted with her in January-2017. He used to stalk her and threatened her. He always expressed that he is in love with her. He intends to marry her. Subsequently they became friends. The complainant thereafter learnt that the applicant is involved in several cases. She stopped talking with him. On 13th September 2018 the

applicant called her at Gavdevi temple. The complainant left her house without disclosing that she is meeting applicant. Both of them went together on motorcycle. Thereafter they boarded bus and went to Shirdi. They stayed outside the temple for one day. On 15th September 2018 they boarded bus and returned to Kalyan. The accused thereafter left to the house of his sister. The complainant returned to her house. Her mother had lodged missing complaint with Badlapur Police Station. Police made inquiries with complainant. She disclosed that she had on her own accompanied the applicant and had gone to Shirdi. The case was withdrawn. The victim was handed over to her parents. The complaint did not disclose their relationship to any other person on account of fear. Thereafter the victim was sent to Ujjain, Madhya Pradesh to their relative's house. After fifteen days she returned to Badlapur. She started going to her college. The applicant was making attempts to meet her. He was making inquiry about her. On 5th July 2019 she left the house for going to her college. She came to Badlapur Railway Station. She was waiting for her train. She boarded local train and went to Ambarnath Station. While she was waiting for her friend, applicant came there. He told her that he wants to talk her. He wanted to marry her. Out of fear the complainant accompanied him. She was made to sit in auto rickshaw. She was threatened with knife and told that her parents will be killed. She was taken to a premises of his friend. The accused had subjected her to forceful sexual intercourse. She was threatened not to disclose the incident to anyone. On 13th July 2019 she sent a message to brother of applicant. The complainant and her family were threatened. Both sides had lodged NC complaints against each other. Subsequently complainant realized that she had missed her period. She disclosed

the incident to her mother. Thereafter the FIR was registered.

3. During the course of investigation supplementary statement of the complainant was recorded on 23rd October 2019. In that statement she has stated that on several occasions she has visited the house of applicant. She is aware that several cases were registered against him and he was also detained in jail. She has reiterated her version reflected in the FIR. After missing her period she had approached a Doctor and it was disclosed that she was pregnant.

4. Learned counsel for applicant submitted that assuming that allegations are true, it is apparent that both were acquainted with each other. Statement of the complainant indicate that she had accompanied the applicant to Shirdi. She had also visited the house of applicant on several occasions. The allegation that she was forced to indulge in physical relationship, is concocted and after thought. There is delay in lodging the FIR.

5. Learned APP submitted that the victim was minor at the time of incident. Provisions of POCSO Act are invoked in this case. The applicant is a history sheeter. There are several cases registered against him. There is truth in the version of complainant that she was threatened by applicant. The police record shows that six cases were registered against applicant. Externment proceedings were also initiated against him. The statement of complainant recorded during investigation indicate that accused had taken undue advantage and she was forced to have physical relationship. It cannot be said that relationship was consensual.

6. I have perused the FIR lodged by the victim and supplementary statement. The applicant is in custody from 29th July 2019. From the tenor of FIR and the subsequent statement, it can be seen that the victim and applicant had become friends. She had boarded bus and went to Shirdi with applicant. On the day of alleged incident, she had accompanied the applicant. Thereafter she had alleged that she was forced to keep physical relations. That incident had occurred on 5th July 2019. The FIR was registered on 24th September 2019. In the supplementary statement the victim had stated that on several occasions she had visited the house of applicant. According to applicant the date of birth of the applicant is 16th January 2001. On 5th July 2019 the victim appears to be major. Considering the nature of relationship between both the parties, the applicant need not be further detained. Hence, I pass following order:

ORDER

- (i) Bail Application is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.203 of 2019 registered with Badlapur West Police Station, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report Badlapur Police Station once in every month on first Saturday between 11 am and 1 pm for a period of six months, and thereafter once in three months on first Saturday between 11 am and 1 pm till further orders;
- (iv) The applicant shall not tamper with evidence;
- (v) Interim Application is disposed of.

7. This order will be digitally signed by the Private Secretary of

this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

MST