

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

CRIMINAL BAIL APPLICATION NO. 1485 OF 2020

Shahid Khan Ismail Khan Applicant

Versus

The State of Maharashtra & Anr. Respondents

Mr. Mahendra N. Sandhyanshiv for Applicant.
Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.75 of 2018 registered at Malegaon city police station, Nashik, on 03/12/2018 under sections 376(1), 363 and 366A of the Indian Penal Code (for short 'IPC') and under sections 4 and 8 of The Protection of Children from Sexual Offences Act.

2. Heard Shri. Mahendra Sandhyanshiv, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged on 03/12/2018 by the victim herself. She was 17 years of age. She has stated in her F.I.R. that she had studied upto 7th std. The applicant was uncle of one of her classmates. He used to follow her. He started making friendship with her slowly. The victim started responding to him. It is alleged in the F.I.R. that the applicant took her to a lodge in Malegaon about 8 to 9 months prior to registration of F.I.R. There he had sexual intercourse with the victim. After that, within 8 days the victim was taken to Chalisgaon by the applicant at a lodge and again there he had sexual intercourse with the victim. Same act was repeated in Manmad. On 08/06/2018 again she was forced to go to Manmad and again the same incident was repeated. There are allegations that the applicant had threatened the victim of committing her murder. She was also threatened that he would commit murder of her mother. He threatened the victim that he will throw acid on her face. The victim was fed up with that constant harassment. Thereafter she narrated these instances to her family members and thereafter this F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, there is delay in lodging F.I.R. The last incident was dated 08/06/2018 and the F.I.R. is lodged on 03/12/2018. He submitted that the charge-sheet shows that there was enmity between the applicant and victim's family. The statement of one Anisa shows that the applicant had given about Rs.2 to 3 lakhs to the victim's family and it was not returned. He submitted that, on 28/11/2018 there was some F.I.R. lodged on 28/11/2018 by the sister of the applicant against one of the relatives of the victim and as a counter blast, this F.I.R. is lodged against the applicant.

5. Learned APP opposed this application. He relied on the documents of medical examination of the victim. He submitted that, at this stage, there is no reason to doubt the version of the victim.

6. I have considered these submissions. With the assistance of the learned counsel for both the parties, I have perused the charge-sheet. The medical papers do show that the medical officers have opined that there was possibility of intercourse.

7. The victim has narrated the instances where applicant had taken her to various lodges and had sexual intercourse with her. The victim is 17 years of age and hence, she is not an adult. In any case the applicant is 38 years of age. He is a married man and has a child. Therefore, it is obviously a case of exploitation of the victim. No leniency can be shown to the applicant. At this stage, there is no reason to doubt the version of the victim. The submission that, the F.I.R. is lodged as a counter blast to the previous enmity has no force. It is far fetched. The FIR lodged by the applicant's sister against victim's relative has no bearing on the present case. In this view of the matter, no case for grant of bail is made out.

8. Application is rejected.

(SARANG V. KOTWAL, J.)