

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2486 OF 2019**

Amol B. Suryawanshi
Versus
State of Maharashtra

...Applicant

...Respondent

Mr. Anilkumar Patil for the Applicant.

Mr. A.R.Patil, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 4th FEBRUARY, 2021

P.C. :

1 Heard Learned Counsel for the applicant and the Learned A.P.P
for the State.

2 By this application, the applicant seeks his enlargement on bail
in connection with C.R. No. 28 of 2019 registered with the Camp Police
Station, Malegaon, Nasik, for the alleged offences punishable under
Sections 376(A) (B), 363 and 506 of the Indian Penal Code and Section 4
and 6 of Protection of Children from Sexual Offence Act, 2012.

3. Learned Counsel for the applicant submits that the identity of
the applicant is not established by the prosecution and that, it is not clear on

the basis of the material collected, that the applicant is the person who sexually assaulted the victim girl, more particularly, when the FIR was lodged as against an unknown person.

4. Learned APP opposes the application.

5. Perused the papers. According to the prosecution, the incident is alleged to have taken place in the intervening night of 22/05/2019 and 23/05/2019. It appears that there was a wedding function across the victim's house, which was attended by the victim. It is alleged that at about 12 midnight, after the victim aged 11 years returned home, the complainant (mother of the victim) and the family members went to sleep, leaving the door of the house open. According to the complainant, whilst they were asleep, some unknown person picked up her daughter aged 11 years, gagged her mouth, and took her to a nearby spot and sexually assaulted her. At around 2.30 a.m., when the girl returned, her mother (complainant) on seeing blood on her pant asked her what had happened, pursuant to which, the victim girl disclosed the incident and gave the description of the person who had committed the said act. Pursuant thereto, the victim girl's mother lodged an FIR as against an unknown person alleging the aforesaid offences. During the course of investigation, the applicant was arrested. In

the Test Identification Parade, the victim girl identified the applicant. The medical examination clearly shows that the girl was sexually assaulted. The history given to the Doctor is consistent with the complaint/FIR and the victim's statement.

6. Considering the serious allegations, where a 11 year old girl was picked up from her house by the applicant, taken to a secluded spot, where she was sexually assaulted, this is not a fit case to enlarge the applicant on bail. Hence, the application is rejected.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.