

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 BAIL APPLICATION NO.23 OF 2022

**MAROTI GOVIND BODKE
VERSUS
THE STATE OF MAHARASHTRA**

Shri. M. S. Bhosale, Advocate for the applicant
Smt. R. P. Gour, APP for the respondent/State
Shri. B. N. Gadegaonkar, APP for respondent No. 2.

**CORAM : M. G. SEWLIKAR, J.
DATED : 15th February, 2022**

PER COURT :-

1. The informant aged 17 years is the relative of the applicant. It is alleged in the FIR that the applicant wanted the informant to talk to him and wanted the informant to meet him. The informant did not accede to his request. The applicant on that count started threatening her.

2. In the month of January, 2021 the informant agreed to meet the applicant. They decided to meet at village Kahala. Informant was returning from the bus from Mukhed to Nanded via Kolambi. At Kahala, the applicant boarded the bus. Both of them alighted at Nanded. The

applicant took the victim to a lodge at 4.30 p.m. He had forceful penetrative sexual assault on the victim.

3. The applicant again met the informant-victim in the month of March, 2021 in the fair of Mahashivratri. He wanted the informant to elope with him. He wanted to marry the informant but the informant was not ready for it as she was minor. Thereafter, the applicant started abusing the father of the informant. He had expressed his desire to the father of the informant of marrying the informant. When the father of the informant did not approve of this proposal, the applicant started abusing him. On these allegations FIR came to be registered under Sections 376(1), 506 of the Indian Penal Code and under Sections 3, 4 of POCSO Act, 2012 with Mukhed Police Station, District Nanded vide Crime No. 0311 of 2021.

4. Heard Shri. Bhosale, learned counsel for the applicant, Smt. Gour, learned APP for the respondent/State and Shri. Gadegaonkar, learned counsel for respondent

No.2.

5. Learned counsel Shri. Bhosale for the applicant submits that there is delay of 8 months in lodging the FIR for which no explanation is forthcoming. He submits that the lodge owner has given the statement in which he has stated that the applicant had booked the room in the lodge and the informant had come half an hour later. He submits that this statement is diagonally opposite to what is alleged in the FIR by the informant.

6. Learned APP Smt. Gour and Shri. Gadegaonkar, learned counsel assisting APP submit that applicant has been pestering the father of the informant for his marriage with the informant. When the father of the informant refused to accede to his request, the applicant started abusing the father of the informant. If he is released on bail, he will pressurize the witnesses especially the father of the informant being the relative. They, therefore, submit that the application deserves rejection.

7. Admittedly, delay of 8 months in lodging the FIR has been committed for which no explanation is assigned. Statement of the Proprietor of the lodge in which the applicant had booked the room is recorded. He states that on 10th February, 2021 the applicant had booked a lodge. After half an hour a girl came to meet the applicant. In the FIR the informant has stated that the applicant had forcefully taken her to the lodge. Whereas, the lodge owner says that the informant had arrived in the lodge half an hour later after booking the room by the applicant. There is no medical evidence indicating that the applicant had penetrative sexual assault with the informant-victim. In this view of the matter, it does not appear that there is *prima facie* case against the applicant. Hence the following order is passed.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with

one solvent surety in the like amount in connection with CR No. 0311 of 2021 under Sections 376(1), 506 of the Indian Penal Code and under Sections 3, 4 of POCSO Act, 2012 registered with Mukhed Police Station, Dist. Nanded, on condition that he shall not pressurize the prosecution witnesses and shall attend the dates fixed during trial and also on condition that he shall not enter village Jahur, Tq. Mukhed and shall not keep any contact with the informant/victim in any manner whatsoever including social media till the conclusion of the trial.

3. Application is disposed of.

4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp