

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

**938 BAIL APPLICATION NO.142 OF 2022**

Sunil s/o Murlidhar Chaudhari  
Age: 45 years, Occu.: Agri.,  
R/o. Deogoan, Tq.Paranda,  
Dist.Osmanabad.

..Applicant  
(Org. accused)

VERSUS

The State of Maharashtra  
Through Police Station Officer,  
Paranda Police Station,  
Tq.Paranda, Dist.Osmanabad.

..Respondent

...  
Advocate for Applicant : Shri Abhijit S. More  
APP for Respondent : Smt.R.P.Gaur

...  
**CORAM : M.G.SEWLIKAR, J.**

**DATE: 18<sup>th</sup> February, 2022**

**PER COURT :-**

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.0252 of 2021, registered with Paranda Police Station, District Osmanabad, under Sections 450, 376, 392, 324, 323, 504, 506 of the Indian Penal Code.

2. Prosecution's case in nutshell is as under :-

The informant is the sister-in-law of the applicant (applicant is informant's husband's brother). Husband of the informant died in the year 2016. Applicant resides in the adjoining house of the

informant.

3. On 18<sup>th</sup> July, 2021 at 10:30 p.m. there were knocks on the door. Informant asked as to who was knocking the door. Applicant replied that he was knocking the door. The informant refused to open the door. Thereupon, the applicant said that he would break the door and started kicking the door. The informant opened the door. Applicant slapped the informant saying as to why she took so much of time for opening the door. He picked up a wooden rod and started beating on her shin, on her right palm and on her left calf. Hearing this commotion, son of the informant woke up. He started crying loudly. Applicant threatened him and forced him to sleep with a quilt covering his face. The applicant pushed her and committed rape on her. When she tried to resist, applicant slapped her. On these allegations, report came to be lodged against the applicant on the basis of which crime under the aforesaid Sections came to be registered.

4. Heard Shri A.S.More, learned counsel for the applicant and Smt.R.P.Gaur, learned APP for the respondent-State.

5. Shri More, learned counsel for the applicant submits that medical evidence is not supporting the prosecution. He submits

that the medical evidence does not show any injury on the private part. He submits that there is a dispute between the applicant and the informant on account of agricultural land. To take vengeance this false complaint has been filed against the applicant.

6. Smt.Gaur, learned APP for the respondent-State submits that there is cogent evidence against the applicant. She submits that the statement of the son of the informant has been recorded under Section 164 of the Code of Criminal Procedure and he has given the detailed account of the incident.

7. It is true that medical evidence is not supporting the prosecution.

8. Charge-sheet is filed. Statement of the child recorded by the Magistrate under Section 164 of the Code of Criminal Procedure shows that when he woke up, he saw the applicant slapping his mother 2 to 4 times. He was threatened by the applicant to go to sleep else he would also be beaten. He had covered himself with a quilt. He saw that the applicant had laid himself over his mother. Thereafter, he went to sleep. On the next day, he noticed the injuries on the leg and hands of his mother.

9. Statement of neighbour - Sanjay Ganpat Shinde shows that on 19<sup>th</sup> July 2021 at 08:00 a.m., the son of the informant had been to him and asked for the mobile of this witness as the informant had demanded it. He gave the mobile to the child. An hour later, when he was passing from the house of the informant, at that time, he saw the informant crying. She told this witness - Sanjay Shinde about the incident of rape. It has come in the FIR that the applicant had taken both the mobile phones of the informant with him. Witness Asha Kumar Vhale also deposed to the same effect. From the statements of these witnesses, it is clear that there is a *prima-facie* case against the applicant. In this view of the matter, I am not inclined to release the applicant on bail. Hence, the order :-

**ORDER**

- i) Bail Application is dismissed.
- ii) It is clarified that the observations made in this 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 )  
JUDGE**