

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

**BAIL APPLICATION NO.151 OF 2022**

Sukhdeva Ganesha Ram

..Applicant

Vs.

The State of Maharashtra  
and anr.

..Respondents

----

Mr.G.G.Kadam, Advocate for applicant

Mr.S.P.Sonpavale, APP for respondent no.1

Mr.U.M.Maske Patil, Advocate for respondent no.2

----

**CORAM : R.G. AVACHAT, J.**

**DATE : JULY 25, 2022**

**ORDER :-**

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.I-911 of 2021 registered with Tophkhana Police Station, Dist.Ahmednagar.

2. Heard learned counsel appearing for the parties.

3. Learned counsel for the applicant would submit that the DNA report has not yet been received. According to him, such report must have been unfavorable to the prosecution and therefore, is not being placed on record. According to him, a false FIR has been lodged

in view of earlier enmity between the father of the informant and the applicant herein. He also relies on the medical examination report of the applicant to contend that there was no injury or any mark on the applicant's private part. According to him, it will take time for commencement and conclusion of the trial. He, therefore, urged for grant of bail.

4. Learned APP and learned counsel for the intervenor would, on the other hand, urged for rejection of the application.

5. Considered the seriousness of the offence and the submissions advanced. The informant (victim) is a 13 years old boy. The FIR has been lodged on the same day. There is nothing *prima facie* to observe acquaintance between the applicant and the informant's father. As such, there is no material to indicate that the relationship between them was unfriendly and the informant to have any reason to falsely implicate the applicant in the crime in question. The nature of the offence itself indicates that there could not be any possibility of the applicant suffering any kind of injury to his private part. The applicant is alleged to have forcibly taken the informant to a secluded place and placed his private part in the mouth of the informant. The applicant has been identified in the T.I. parade. The

FIR has been lodged within hours of the incident. As such, it is not a case for grant of bail.

6. The application is, therefore, rejected.

7. Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.6,000/- (Rupees Six Thousand).

[R.G. AVACHAT, J.]

KBP