

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

BAIL APPLICATION NO.314 OF 2022

Ajay s/o Sudhakar Ekshinge

... APPLICANT

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....

Mr. N.S. Ghanekar, Advocate for applicant

Mr. S.P. Sonpawale, A.P.P. for respondent No.1 – State

Ms Rakhi V. Sundale, Advocate for respondent No.2 (appointed)

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CORAM : R. G. AVACHAT, J.

DATE : 22nd JULY, 2022.

PER COURT :

Heard learned counsel for the parties. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.279/2021, registered at Kalamnuri Police Station, District Hingoli for the offences punishable under Sections 376, 354, 504, 506 of the Indian Penal Code and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act and Sections 3(1)(w)(i)(ii), 3(2)(v) and 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The F.I.R. has been lodged by the victim herself.

As per her case, the applicant enticed her to accompany him to Nagpur on 29/8/2021 and on way, he sexually ravished her in the Car. There are statements of the witnesses to indicate the applicant and the informant to have been emotionally involved. The given day was her birthday. The applicant, the informant and their friends all had gone to celebrate the same. On the night, the informant stayed at her grandmother's house.

3. The F.I.R. has been lodged on 3rd October i.e. about 40 days after the alleged incident. It is informed that, the trial has commenced and two witnesses have been examined. It is, therefore, not desirable to make observations about merits of the matter. Suffice it to state that the entire factual matrix lead this Court to grant bail to the applicant.

4. Ms Sundale, learned counsel representing the respondent No.2 – victim relied on the judgment of the Apex Court in case of **X (Minor) Vs. The State of Jharkhand & anr. [2022 LiveLaw (SC) 194]** . The facts in that case would indicate the victim therein was little over 13 years of age. Here the victim is 16 plus. That makes all the difference. Therefore, I am inclined to grant bail to the applicant. Hence

the order :

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime No.279/2021, registered at Kalamnuri Police Station, District Hingoli for the offences punishable under Sections 376, 354, 504, 506 of the Indian Penal Code and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act and Sections 3(1)(w)(i)(ii), 3(2)(v) and 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence. The applicant shall not enter the village Jambrun, Taluka Kalamnuri, District Hingoli, till the evidence of the victim is recorded.
- (iv) Fee of learned Advocate Ms Rakhi V. Sundale for respondent No.2 is quantified at Rs.6000/-(Rupees six thousand).

**(R. G. AVACHAT)
JUDGE**

fmp/-