

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

BAIL APPLICATION NO.511 OF 2022

Prakash s/o. Ratan Baviskar	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.N.S.Ghanekar, Advocate for applicant
Mr.V.S.Badakh, APP for respondent no.1
Mr.A.D.Raut, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : JULY 29, 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.0186 of 2020 registered with Bodhwad Police Station, Dist.Jalgaon.

2. Heard learned counsel appearing for the parties.
3. This is the second application of the present applicant for bail. The earlier one was withdrawn with liberty to move again on receipt of the C.A. report.
4. The FIR has been lodged by the father of the victim, alleging the applicant herein to have kidnapped his 12 years old girl

(victim). The FIR was lodged on 08.12.2020. The applicant and the victim were traced on the next day only i.e. on 09.12.2020, at the house of the applicant's sister at Indore. Both of them were brought back. They were subjected to medical screening. The statement of the victim and the persons acquainted with the facts and circumstances of the case were recorded. Charge sheet has been filed.

5. The victim gave her statement on 09.12.2020, wherein she stated to have been in love with the applicant. According to her, both of them eloped. She further stated in the statement that the applicant did not have any sexual intercourse with her during their togetherness for two days. Thereafter, her supplementary statement was recorded, wherein she has attributed the applicant with the sexual assault. Her medical examination report does not support the prosecution since the Medical Officer did not give any report. The blood samples of both applicant and victim were obtained from DNA profiling. The DNA report is against the applicant herein. In proof of age of the victim, neither her school record nor birth certificate is there. She was subjected to ossification test. Its report indicates that she was in the age group of 12-13 years.

6. The applicant was 23 years of age at the relevant time. It is a case of emotional involvement. He is behind the bars for little over 1 year and 8 months. Status of the sessions case is not yet known. True, the DNA report favours the prosecution but the procedure for obtaining blood samples and preservation thereof until they are sent to the concerned Laboratory, is yet to be proved during the trial.

7. In view of the above, the Court is inclined to grant the applicant bail. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0186 of 2020 registered with Bodhwad Police Station, Dist.Jalgaon, on 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 in any manner.

[R.G. AVACHAT, J.]

KBP