

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

BAIL APPLICATION NO.525 OF 2022

1. Naresh Balasaheb Choure
2. Anuja w/o Baburao Jaybhaye ... **APPLICANTS**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. P.G. Tambade, Advocate for applicants
Mr. V.S. Badakh, A.P.P. for respondent No.1 – State
.....

WITH

BAIL APPLICATION NO.400 OF 2022

Krushna s/o Suryabhan Gite ... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. P.G. Tambade, Advocate for applicants
Mr. V.S. Badakh, A.P.P. for respondent No.1 – State
.....

CORAM : R. G. AVACHAT, J.

DATE : 18th JULY, 2022.

PER COURT :

Both these bail applications are taken up together
since they arise from one and the same Crime No.78/2021,
registered at Sonpeth Police Station, District Parbhani for the

offences punishable under Sections 376, 376(f), 376(d), 363 read with Section 34 of the Indian Penal Code and Sections 4, 8, 17 of the Protection of Children from Sexual Offences Act.

2. Heard learned counsel for the applicants and the learned A.P.P. for the respondent – State. Perused the First Information Report (F.I.R.) and the related police papers.

The F.I.R. has been lodged by father of the victim. It is alleged therein that the informant along with his wife and children would reside in a tin shed on his agricultural land at Nakhatwadi, Sonpeth, District Parbhani. The victim was 16 years and 6 months old. The residential houses of his 4 – 5 cousins were on the respective lands adjacent to the land of the informant. The applicant Naresh is the son of Balasaheb, residing in the neighbourhood of the informant while the applicant Anuja, a niece of neighbour Laxman Choure has been residing at the house of Laxman since her relations with her husband have not been good. One Lahu (co-accused) is a cousin of Balasaheb Choure. Lahu owns a tractor. He uses the same for ploughing of fields for monetary consideration. Krushna (applicant in Bail Application No.400/2022) is the

cousin of neighbour Laxman Choure. He owns a pick-up van. He is in transport business.

3. It is alleged in the F.I.R. that, on the intervening night of 16/4/2021 and 17/4/2021, the informant got up to find his daughter (victim) was not at her place. He thought her to have gone to answer nature's call. She, however, did not return. A search for her was, therefore, made in the village and with relations as well. It was found that, Krushna, Naresh and Anuja (applicants herein) too were not at their respective houses. The informant, therefore, lodged the F.I.R., alleging them to have kidnapped the victim.

4. On having realised a crime to have been registered, the victim and others came back. Statements were recorded on 26th April, 4th May, 5th May and 27th May. She alleged to have been sexually ravished by the applicants Naresh, Krushna and co-accused Lahu. Applicant Anuja is alleged to have assisted Krushna to kidnap the victim.

5. Learned counsel for the applicants would submit that, the victim changed her statements every time. Co-

accused Lahu has been granted bail. One of the applicants is a lady. The investigation has been over. Charge sheet is filed. The applicants are young. It will take time for the trial to commence. Learned counsel for the applicants, therefore, urged for grant of the applications.

6. The learned A.P.P. would, on the other hand, submit that, it is a serious offence. A minor girl was kidnapped and sexually abused by not less than three persons. They were assisted by a lady accused. The learned A.P.P., therefore, urged for rejection of the applications.

7. Considered the submissions advanced. Perused the statements given by the victim. It is her case that, the applicant Anuja had friendly relationship with the applicant Naresh. On 2/4/2021, co-accused Lahu had come to the field of the victim. The applicant Anuja introduced him to the victim. It is further her case that, on the night of 3/4/2021, Anuja asked the victim to accompany her to answer nature's call. She, therefore, went with her. Anuja told her that they have to join Naresh and Lahu. Lahu was present around. Anuja asked the victim to stay with Lahu. She went to meet

Naresh. That time, Lahu had sexual intercourse with the victim without her consent and against her wish. It is further her case that on 7/4/2021, the applicant Naresh made the victim wake up. She, however, did not join him to meet Lahu. It is further her case that, on 14/4/2021, there was one function at the house of Laxman Choure. The applicants had been at the house of Laxman. She too had gone there. The applicant Anuja enticed the victim to join them. All of them went to some hill place in vehicle of Krushna. They stayed overnight in the vehicle itself. During night, Krushna had sexual intercourse with the victim. It is her case that, thereafter they went to Pune. After 3 – 4 days, they came back. In one of her statements, she alleged applicant Naresh also to have had sexual intercourse with her. Perusal of her all 3 – 4 statements indicates she changed her version. In her last statement, she alleged applicant Naresh's father to have paid Naresh some amount while all of them had planned to leave the village in Krushna's vehicle.

8. True, the victim is below 18 years of age. Although she is consistent to allege that applicants Naresh, Krushna and co-accused Lahu had sexually assaulted her at

three different times and applicant Anuja to have enticed her to leave the house, it is just difficult to rely on the victim's statement at the stage of grant of bail. It is informed that, co-accused Lahu has been granted bail. One of the applicants (Anuja) is a lady. Applicant Naresh is 22 years of age. Krushna is around 27. The truth would only be unravelled during trial of the case. It is, therefore, not desirable to keep the applicants behind the bars more so when similarly placed co-accused Lahu has been granted bail. Hence the order :

ORDER

- (I) Both the bail applications are allowed.
- (II) The applicants in Bail Application No.525 of 2022 be released, in connection with Crime No.78 of 2021 registered with Sonpeth Police Station, Dist. Parbhani for the offences punishable under Sections 376, 376(f), 376(d), 363 read with Section 34 of the Indian Penal Code and under Sections 4, 8, and 17 of Protection of Children from Sexual Offences Act, on executing P.R. Bonds in the sum of Rs.15,000/-

(Rupees Fifteen Thousand) each with one surety each in the like amount.

- (III) The applicant in Bail Application No. 400 of 2022, be released, in connection with Crime No. 78 of 2021 registered with Sonpeth Police Station, Dist. Parbhani for the offences punishable under Sections 376(f), 376(d), 366 of the Indian Penal Code and under Sections 4, 8, and 17 of Protection of Children from Sexual Offences Act, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.
- (III) The applicants shall not tamper with the prosecution evidence.

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

fmp/-