

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

BAIL APPLICATION NO.1075 OF 2022

Feroj s/o Bashir Shaikh

... APPLICANT

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. P.P. More, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent No.1 – State
Ms Rani R. Tandale, Advocate for respondent No.2.
.....

CORAM : R. G. AVACHAT, J.

DATE : 19th AUGUST, 2022.

PER COURT :

Heard. 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.0214/2022, registered at Vivekanand Chowk Police Station, Latur, for the offence punishable under Sections 376, 376(2)(f), 376(2)(j), 354, 506 of the Indian Penal Code and Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act.

2. The F.I.R. has been lodged by the victim herself on 12/4/2022. The victim is little over 17 years of age. The applicant is the husband of her paternal aunt. The victim was

a 12th Standard student of Science Stream. She is resident of Kesnand Phata, Wagholi, Pune. For the purpose of appearing for 12th Standard examination, she had come to Latur and was residing at the house of her parental aunt. The applicant too would reside in the same house. It is the case of the informant that, on the night of 27/2/2022, when all the family members were fast asleep, the applicant had tried to share her bed. She immediately got up. The victim tried to wake up her cousin. The applicant, therefore, tendered apology and said the same had happened under the influence of alcohol. The said incident was shared by the victim with her aunt Rehana. It is further her case that, on 3/3/2022, she was alone home. The applicant came home by 2.30 p.m. The applicant compelled her to submit to his lust. The applicant had sexual intercourse with her. It is also her case that, as she was appearing for the examination, she did not disclose the incident to anyone immediately. She, however, shifted her residence to the house of her maternal uncle on 17/3/2022. After examinations were over, she went back to her parent's house on 5/4/2022. On 7/4/2022, she shared her ordeal to her parents and brother as well. Ultimately, she lodged the F.I.R. on 12/4/2022.

3. The learned counsel for the applicant would

submit that, a false F.I.R. has been lodged. The mother of the victim was given hand loan of Rs.40,000/-. The money was raised by wife of the applicant as a loan from Co-operative Credit Society. Only with a view to avoid repayment of loan amount, a false F.I.R. has been lodged. This Court finds no substance in whatever has been submitted by the learned counsel, since there is nothing in support thereof.

4. The learned A.P.P. and learned counsel representing the respondent No.2 victim would, on the other hand, submit that, the victim had no reason to falsely implicate the applicant, who is her close relation. The delay has been properly explained since she was appearing for the examination and, therefore, expected to concentrate on her studies. No sooner she went back to her parent's house and shared her ordeal with them, the F.I.R. has been lodged. The applicant is a married person. Both the learned counsel, therefore, urged for rejection of the application.

5. Considered the submissions advanced. Perused the F.I.R. and the related papers. The incident of sexual assault allegedly took place by 2.30 p.m. on 3/3/2022. The F.I.R. has been lodged 40 days thereafter. The delay has been sought to be explained in the F.I.R. itself. This inordinate

delay, however, leads this Court to grant the applicant bail.

Hence the order :

ORDER

(i) The Bail Application is allowed.

(ii) The applicant be released on bail in connection with Crime No.0214/2022, registered at Vivekanand Chowk Police Station, Latur, for the offence punishable under Sections 376, 376(2)(f), 376(2)(j), 354, 506 of the Indian Penal Code and Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act on his furnishing 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 try to influence the victim or any of the witnesses. If such incident is reported, the bail may be liable to be cancelled.

(iv) The applicant shall not tamper with the prosecution evidence.

(v) Fees of learned counsel Ms Rani R. Tandale, who was appointed for respondent No.2, is quantified at Rs.6000/- (Rupees six thousand).

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

fmp/-