

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

BAIL APPLICATION NO. 1093 OF 2022

Vaibhav Babarao Kadam

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

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Mr. P.N. Kalani, Advocate for applicant

Mr. N.T. Bhagat, A.P.P. for respondent no.1 – State

Mr. M.P. Tripathi, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATE : 21st SEPTEMBER, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 117 of 2022 registered with Selu Police Station, Dist. Parbhani for the offences punishable under Sections 376(3), 452 and 506 of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by mother of the victim on 22nd March, 2022. The same is based on hearsay. As per the case of prosecution,

the applicant was a water jar vendor. On 04th March, 2022 he came home of the informant. The victim was alone at home. Taking advantage thereof, he committed rape of the victim. When the victim experienced stomach pain on the following day, she shared the same with her mother – informant.

4. Learned A.P.P. and learned counsel for the victim would submit that the offence is serious one. It is not a case of consensual relationship. The applicant is twenty-six years of age. The victim was just little over twelve years of age at the relevant time. The charge has been framed. If any order is passed either way, the same is likely to influence the trial Court in disposing of the case on merits. They, therefore, urged for rejection of the application.

5. What can be observed at this stage is that the prosecution case may be true. The fact is that the F.I.R. has been lodged after nineteen days of the alleged incident. Necessarily, the medical evidence would not support the prosecution case. The applicant was not known either to the victim or to the informant. He was located on the basis of his cell phone number. Suffice it to say that without observing anything more, the Court is inclined to grant the application. The trial Court shall not be influenced by any of the observations made herein.

6. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released on bail, in connection with Crime No. 117 of 2022 registered with Selu Police Station, Dist. Parbhani for the offences punishable under Sections 376(3), 452 and 506 of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012, 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 enter town Selu, Dist. Parbhani until conclusion of trial.

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

(R.G. AVACHAT, J.)

SSD