

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

BAIL APPLICATION NO.1134 OF 2022

Vinod Madhukar Bhavsar

..Applicant

Vs.

The State of Maharashtra
and anr

..Respondents

Mr.H.P.Randhir, Advocate for applicant

Mr.V.S.Badakh, APP for respondent no.1

Mr.H.A.Padalkar, Advocate for respondent no.2

CORAM : R.G. AVACHAT, J.

DATE : OCTOBER 06, 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.0154 of 2021 registered with Ramanand Police Station, Dist.Jalgaon, for the offences punishable under Sections 376, 323, 504 and 506 read with Section 34 of Indian Penal Code and Sections 12 and 18 of the Protection of Children from Sexual Offences Act.

2. Heard learned counsel appearing for the parties.

3. The First Information Report (FIR) has been lodged by the victim herself on 01.06.2021. When the FIR was lodged, she was approximately 20 years of age. It is her case that the applicant is her

step-father. Her natural mother married the applicant way back in 2014. She was 13 years of age by then. It is her case that when she turned 18, on 17.02.2019, her mother was away from home. The applicant and herself only were present home. Taking advantage of the situation, the applicant committed sexual intercourse with her. He threatened her of dire consequences, if she went public. It is her further case that such incidents continued to take place. Last such incident is dated 23.01.2021. It was the day of marriage anniversary of the applicant and the natural mother of the informant. It has been averred in the FIR that the victim went to sleep in the hall. The applicant went to her by 2.00 in the midnight and started committing *Jabardasti*. By that time, her mother got up. She came to hall and slapped the applicant. It is further case of the prosecution that thereafter, the mother sent the victim to her maternal uncle's residence in Nigadi, Pune. It is also alleged that thereafter, applicant used to send romantic messages and songs on the cellphone of the victim. It is informed that nothing of that sort was discovered in the investigation.

4. Learned APP and learned counsel for the informant has strong reservations to grant the applicant bail. According to them,

the applicant was the father, may be a step one, of the victim. There is statement of the applicant's natural daughter to indicate that on the given day, the mother had slapped the applicant. Learned counsel meant to say that the slap was in relation to the applicant having been found committing obscene act with the victim. It is also alleged that the applicant threatened the victim and her mother to go back on their statements. Rejection of the application is, therefore, urged.

5. It is true that there are no words to condemn the act of the applicant, if true. The applicant is step-father of the victim. He is alleged to have sexually exploited the victim, step-daughter, since 17.02.2019. It was the victim's birthday. She had turned 18 that day. It is her case that thereafter, the applicant sexually exploited her many a time. He was caught doing same thing at the midnight of 23.01.2021.

6. It is true that what has been alleged in the FIR may not be false. The fact is that the FIR has been lodged 01.06.2021 i.e. about little over four months after last such incident. The victim was necessarily medically screened thereafter. The medical examination report is, therefore, bound to be not favourable to the prosecution,

to suggest signs of sexual intercourse in the recent past. It is informed that the matrimonial relationship between the applicant and his wife is not good. The applicant is in jail for little over one and half years. In the given circumstances, the court is inclined to grant the applicant bail.

7. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0154 of 2021 registered with Ramanand Police Station, Dist.Jalgaon, for the offences punishable under Sections 376, 323, 504 and 506 read with Section 34 of Indian Penal Code and Sections 12 and 18 of the Protection of Children from Sexual Offences Act, on executing P.R. Bond in the sum of Rs.2,00,000/- (Rupees Two Lakhs) with one surety in the like amount.

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

(iv) Until conclusion of the trial, the applicant shall not enter Pune and Pimpri-Chinchwad, except for attending the Court case.

[R.G. AVACHAT, J.]

KBP