

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

BAIL APPLICATION NO. 1239 OF 2022

Chandrakant Gorakh Thorvey	... Applicant
Versus	
The State of Maharashtra and another	... Respondents

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Mr. G. R. Syed, Advocate for applicant
Mr. R. B. Bagul, APP for respondent No.1 – State
Mr. A. R. Gaikwad, Advocate for respondent No.2

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CORAM : R. G. AVACHAT, J.
DATED : 29th SEPTEMBER, 2022

PER COURT :-

. 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.0197/2021, registered at Ambhora Police Station, District Beed, for the offences punishable under Sections 376, (1)(2)(3), 376(2)(n), 506 of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences (POCSO) Act.

2. Heard. Perused the First Information Report (FIR) and related papers.

3. The FIR has been lodged by the father of the victim on 10.08.2021. It is his case that his 15 year old daughter conceived and even delivered a baby. While she was taken into confidence, she attributed the applicant with sexual assault on her. The applicant therefore came to be arrested. During investigation, blood samples of both of them were obtained for DNA profiling.

4. It is also informed by the learned APP and the learned Advocate for the victim that the victim was psychologically disabled. Statements of the victim and her family members recorded under Section 164 of the Code of Criminal Procedure point accusing finger at the applicant.

5. The learned Advocate for the applicant would submit that on investigation, the charge-sheet has been filed. The DNA report does not attribute the applicant to be biological father of the newborn. He, therefore, urged for grant of application.

6. The learned APP and the learned Advocate representing the informant would, on the other hand, submit that the victim and her family members have given consistent statement attributing the role of the applicant in the crime in question. The offence is serious

one. The victim was mentally challenged. They, therefore, urged for rejection of the application.

7. DNA report rules out the applicant to be the biological father of the newborn. It would therefore not be desirable to reject the application. The application is therefore allowed in terms of following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0197/2021, registered at Ambhore Police Station, District Beed, for the offences punishable under Sections 376, (1)(2)(3), 376(2)(n), 506 of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences (POCSO) Act, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]