

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

BAIL APPLICATION NO.1250 OF 2022

Sundar s/o. Nivrutti Tayad	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondents

**AND
BAIL APPLICATION NO.1278 OF 2022**

Vinod s/o. Ganpat Sharnagat	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.Y.K.Bobade, Advocate for applicant in B.A. No.1250/2022
Mr.R.N.Chavan, Advocate h/f. Mr.A.L.Muley, Advocate for applicant in
B.A. No.1278/2022
Mr.R.B.Bagul, APP for respondent no.1
Mr.B.P.Pande, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : SEPTEMBER 22, 2022**

ORDER :-

These applications have been filed under Section 439 of the Code of Criminal Procedure. They are taken up together since they arise from one the same crime i.e. Crime No.068 of 2022 registered with Talwada Police Station, Dist.Beed, for the offences punishable under Sections 452, 336, 363, 366-A, 376-AB and 506 read with Section 34 of Indian Penal Code and under Sections 4, 6, 8, 12, 17 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 mother of the victim on 05.05.2022. The informant is resident of village Rampuri, Tq. Georai, Dist. Beed. She would reside along with husband and three minor children, a son and two daughters. By 11.00 p.m. on 04.05.2022, stones were pelted on their house. The informant and her husband, therefore, came out, to see what the matter was. Both of them noticed presence of the applicant – Sundar outside their residence. While the informant's husband gave him call, he took to heels. Both informant and her husband, therefore, went to the house of the applicant-Sundar. He was not home. His elder brother – Dnyaneshwar and his wife were there. The informant related them the incident of stone pelting. Thereafter, both informant and her husband came back home to find that their 6 years old daughter (victim) was missing from the home.

4. The informant, her husband and some villagers, therefore, took search for the victim but in vain. By 02.00 in the midnight, the informant heard cries of the victim from near Limbajibaba temple. The informant found that the victim was coming from the side of the temple. She was crying. She was taken into

confidence. She then disclosed that one person took her to a secluded place in the field. He put his private organ in her mouth. He also inserted his fingers in her private part. The victim took the informant and her father to the house of the applicant – Sundar and stated that the said person was none other than the applicant – Sundar. In the test identification parade, she also identified applicant – Sundar.

5. The medical evidence also supports the case of prosecution. Considering the material on record, this Court is not inclined to grant bail to applicant – Sundar. His application, therefore, fails.

6. It is also the case of the prosecution that the applicant – Vinod was in the company of the applicant – Sundar. He also has been identified in the test identification parade. The statement of the victim indicates that while applicant - Sundar committed the overt acts, applicant - Vinod was present by their side. No overt act has been attributed to applicant – Vinod. The statement made by applicant – Sundar would not be admissible against the co-accused – Vinod. Since no overt act has been attributed against the applicant – Vinod, The Court is inclined go grant him bail.

7. Hence, the following order:-

(i) Bail Application No.1250 of 2022 filed by applicant - Sundar s/o. Nivrutti Tayad is rejected.

(ii) Bail Application No.1278 of 2022 filed by applicant - Vinod s/o. Ganpat Sharnagat is allowed.

(iii) The applicant - Vinod s/o. Ganpat Sharnagat be released in connection with Crime No.068 of 2022 registered with Talwada Police Station, Dist.Beed, for the offences punishable under Sections 452, 336, 363, 366-A, 376-AB and 506 read with Section 34 of Indian Penal Code and Sections 4, 6, 8, 12, 17 of the 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.

(iv) He shall not tamper with the prosecution evidence.

(v) He shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 am. and 12.00 noon., for next twelve months.

(vi) He shall not enter the village Rampuri, Tq. Georai, Dist. Beed, for next twelve months.

[R.G. AVACHAT, J.]

KBP