

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

18 BAIL APPLICATION NO.1300 OF 2021

SHANKAR GANESH POLE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondents/State : Mr. V.S. Badakh
Advocate for R/2 : Mr. Nirmal Ramchandra J.
...

CORAM : M.G. SEWLIKAR, J.
DATE : 10th January, 2022

PC.:-

By this application, applicant is seeking bail in connection with Crime No.119/2021 under Section 376 of I.P.C. and under Section 3(c) of POCSO Act registered with Aundha Nagnath Police Station, District Hingoli.

2. It is the case of the prosecution that on 9th June, 2021 near canal, the applicant held the victim from behind and had forceful sexual intercourse with her. He threatened her not to disclose it to anyone and had promised her to marry her. At that very moment father of the the victim came there. On seeing the father, applicant gave a push to him and ran away. On these allegations FIR came to be registered on 10th June, 2021.

3. I have heard learned counsel Shri Ghanekar for the applicant,

learned APP Shri Badakh for the Sate and Shri Nirmal learned counsel for the respondent no.2.

4. Learned counsel Shri Ghanekar submits that medical evidence is in the negative. He further submits that the statement of the father of the victim clearly shows that nothing of the sort alleged in the FIR had happened.

5. Learned APP Shri Badakh and Shri Nirmal learned counsel for respondent no.2 submit that there is ample evidence to connect the accused with the offence. They submit that contents of the FIR and the contents of her statement under Section 164 of the Cr.P.C. are consistent with each other.

6. On perusal of the medical report, it is seen that there are no signs of sexual intercourse. Medical evidence shows that there is no injury to hymen. There were no other injuries on the person of the victim. On perusal of the statement of father of the victim, it is revealed that the applicant and the victim were sitting together in the field at a distance of about 1 k.m. from the village. Father did not notice any inappropriate act on the part of the applicant and the victim. According to him they were simply sitting together. Cumulative effect of all these circumstances is that there is hardly any evidence to indicate that there was sexual assault by the applicant on the informant. In this view of the matter, I am inclined to release the applicant on

bail. He does not have criminal antecedents. He will be available for trial. In this view of the matter, the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent surety in the like amount, in connection with Crime No.119 of 2021 under Section 376 of the I.P.C. and under Section 3(c) of the POCSO Act with Aundha Nagnath Police Station, District Hingoli on condition that he shall not tamper the prosecution evidence.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]