

(1)

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

**BAIL APPLICATION NO.1789 OF 2022**

BANTI TABAR CHAVAN  
VERSUS  
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Moreswar B. Humane and  
Mr. Kailas Chandrabhan Sonone

APP for Respondent No.1/State : Mr. K.S. Patil

Advocate for Respondent No.2 : Mr. Satish A. Gaikwad

...

**CORAM : S.G. MEHARE, J.**

**DATED : 09<sup>th</sup> DECEMBER, 2022**

**PER COURT:-**

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the victim.
2. After hearing the learned counsel for all the parties concerned, the Court has expressed disinclination to grant the bail. Learned counsel for the applicant was willing to withdraw the application but requested the Court to grant him a liberty to file a fresh bail application after sometime. The Court asked for any provision in law, then the learned counsel for the applicant instead of withdrawing the application asked for the orders. Hence, the Court proceeded to pass the order.
3. The applicant has been arraigned as an accused for forceful sex with his step grandniece. He took away the victim from the custody of her grandmother under the pretext that her parents

called her. On the day of the incident, the parents of the victim had been to Ahmednagar. The grandmother confirmed from the parents whether they asked the accused to bring the victim to them, the parents denied. Hence, the report was lodged.

4. Learned counsel for the applicant would submit that the report is false. He has committed no offence. The medical evidence does not support the prosecution case. The applicant had love affair with the victim. She voluntarily eloped with him; however, he did not sex with her. The mother of the victim had lodge the report of forceful sex against the applicant. The relations were strain. Had it been the intention of the applicant to commit sex, he would not have reached the victim to her mother's place. A total false story has been cooked up against him. Hence, he may be granted bail.

5. Learned APP would argue that the applicant has been involved repeatedly in the similar crimes. The medical evidence corroborate the allegations levelled by the victim against the applicant. *Prima facie* evidence is available against the applicant. The victim has injuries on her person due to forceful sex. Her statement is specific, making the allegations against the applicant that he did repeated forceful sex with her. The victim was 13 years old. The offence is serious. Hence, the application be rejected.

6. Learned counsel for the victim has vehemently argued that the applicant had a bad past of committing offences of sex. He is

married and has children. The corroborative piece of evidence is available against the applicant. The statement of the victim is very specific. He forcefully took away the victim and committed forceful sex with her. Hence, he may not be granted bail.

7. Perused the papers. The statement of the victim is very specific supported with the medical evidence. The blood stain clothes were also collected. The victim has specifically stated how she was kidnapped and raped. The applicant has placed on record the copy of the bail order granted to him by this Court in the similar offence which was registered on the complaint of the mother of the victim. That supports the contention of the learned APP and the learned counsel for the victim that the applicant is repeatedly involved in the serious offences of sexual assault. It is not in dispute that the applicant is the step maternal uncle of the victim of 13 years old. The offence is apparently serious. The Hon'ble Apex Court in the case of *X (Minor) Vs. The State of Jharkhand and Anr, 2022 LiveLaw (SC) 194*, has taken the view that once, prima facie, it appears from the material before the Court that the appellant was barely thirteen years of age on the date when the alleged offence took place, both the grounds, namely that "there was a love affair" between the appellant and the second respondent as well as the alleged refusal to marry, are circumstances which will have no bearing on the grant of bail. Having regard to the age of prosecutrix and the nature and gravity of

(4)

the crime, no case for the grant of bail was established. The ratio laid down by the Hon'ble Apex Court in the case of X (Minor) cited supra, is squarely applicable to the case in hand. The *modus operandi* of the applicant appears that he used to commit the forceful sex with the women. Hence, the application stands dismissed.

**(S.G. MEHARE, J.)**

*Mujaheed//*