

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

943 BAIL APPLICATION NO.1594 OF 2021

**RAHUL DILIP JADHAV
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Santosh C. Bhosle, Advocate for the applicant
Shri. G. O. Wattamwar, APP for the respondent/State
Shri. N. D. Kendre, Advocate h/f Shri. H. S. Bedi, Advocate
for respondent No. 2.

**CORAM : M. G. SEWLIKAR, J.
DATED : 5th January, 2022**

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for enlarging the applicant on bail in connection with Crime No. 332 of 2021 registered with Bhokar Police Station, Dist. Nanded for the offences punishable under Sections 376(3), 342, 448, 506 of the Indian Penal Code and under Sections 4, 6 of POCSO Act.
2. Prosecution case is that applicant and the victim are cousins (i.e. applicant is the son of maternal uncle of the victim).

3. It is alleged that on 14th September, 2021 at 09.00 a.m. the informant (the mother of the victim) came home. On knocking the door, victim opened the door. She was in a frightened state. At that time applicant pushed husband of the informant and ran away. On inquiry the victim told the informant that about 1.30 p.m. victim was alone at home. Applicant came home bolted the door from inside and forcibly had sexual intercourse with her. On these allegations offence as aforesaid came to be registered against the applicant.

4. I have heard Shri. Bhosle, learned counsel for the applicant, Shri. Wattamwar, learned APP for the respondent/ State and learned counsel Shri. Kendre h/f Shri. Bedi, learned counsel for respondent No. 2.

5. Learned counsel Shri. Bhosle submits that there is delay of 4 days in lodging the FIR for which no explanation is forthcoming. He further submits that statement of victim under Section 164 of the Code of Criminal Procedure is totally at variance with the statement under Section 161 of

the Code of Criminal Procedure. He submits that because of personal rivalry this false complaint has been filed.

6. Learned APP Shri. Wattamwar for the respondent/ State and Shri. Kendre, learned counsel for respondent No. 2 submit that medical evidence is consistent with sexual assault. They submit that the victim is 14 years of age. Therefore, applicant should not be released on bail.

7. Statement of victim under Section 164 of the Code of Criminal Procedure has been recorded by the learned Magistrate. In this statement the victim states that there was a quarrel between her parents. At that time applicant was at her house. Applicant assaulted her. Therefore, she lodged report against applicant. There is no whisper in the statement under Section 164 of the Code of Criminal Procedure about the alleged rape committed by the applicant on the victim. Similarly there is delay of 4 days in lodging the FIR. No cause for delay is assigned. In this view of the matter and considering the age of the applicant, I am inclined to release the applicant on bail. Hence the order.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount in connection with CR No. 332 of 2021 under Sections 376(3), 342, 448, 506 of the Indian Penal Code and under Sections 4, 6 of POCSO Act registered with Bhokar Police Station, Dist. Nanded, on condition that he shall not tamper with the evidence, he shall not pressurize the witnesses and shall not keep any contact with the victim.
3. Application is disposed of.
4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, .]

ssp