

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1643 OF 2021

Ravi S/o Ambadas Suradkar

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. J. V. Deshpande, Advocate for the applicant.

Mr. S. B. Narwade, APP for respondent/State.

Mr. G. P. Darandale, Advocate (appointed) for respondent No. 2.

WITH

BAIL APPLICATION NO. 1252 OF 2021

Nilesh S/o Bhagwat Kokate

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. N. B. Narwade, Advocate for the applicant.

Mr. S. B. Narwade, APP for respondent/State.

Mr. G. P. Darandale, Advocate (appointed) for respondent No. 2.

CORAM : M.G. Sewlikar, J.

DATE : 2nd MARCH, 2022.

PER COURT :

1. Both these applications can be disposed of by common order.

2. First Information Report is lodged by a minor aged 11 years (hereinafter referred to as "victim"). The First Information Report mentions that the applicants in both the applications are the residents of the same locality. On the festival of Ram Navami, applicant Nilesh assaulted the victim and took him home. He had unnatural penetrative sexual assault on the victim. Applicant Ravi also did the same act with the victim. Both the applicants had repeated this act with the victim and another minor, for identification referred as "X". Therefore, First Information Report was lodged on 21st June, 2021.

3. Investigation is complete and charge-sheet is filed.

4. Heard Shri Deshapande, learned counsel for the applicant in Bail Application No. 1643/2021, Shri N.B. Narwade, learned counsel for applicant in Bail Application No. 1252/2021, Shri S. B. Narwade, learned APP for the State and Shri Darandale, learned counsel appointed for respondent No. 2.

5. Learned counsel for both the applicants submit that minor's evidence does not show that the applicants had penetrative

sexual assault with the victim. They further submit that medical evidence shows that there was no unnatural sex. They further submit that charge-sheet is filed. Therefore, detention of the applicants behind the bars is wholly unwarranted.

6. Learned APP and learned counsel for the informant submit that there are statements of victims recorded under Section 164 of the Code of Criminal Procedure which show that the applicants had subjected the victims to unnatural sex.

7. Statement of the informant-victim under Section 164 of the Code of Criminal Procedure has been recorded by the learned Magistrate. He gives detailed account of the incident. His statement reveals that both the applicants had subjected him to unnatural penetrative sexual assault. Similar is the statement of another victim 'X'. He has also given detailed account of the incident. Victim 'X' is aged 11 years and the victim-informant is aged 10 years. Having considered the evidence collected by the prosecution and the statement of the victim under Section 164 of the Code of Criminal Procedure, I am not inclined to release the applicants on bail. Hence the following order :-

ORDER

- i) Both the applications are dismissed.
- ii) It is clarified that the observations made in the above order are restricted to the decision of these applications only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.
- iii) Applications stand disposed of.

(M. G. SEWLIKAR)
Judge

dyb