

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

BAIL APPLICATION NO. 1675 OF 2021

Saurabh s/o Vitthal Katkade

...Applicant
(Original Accused)

Versus

1. The State of Maharashtra

... Respondents

2. X. Y. Z.

...

Advocate for the Applicant : Mr. N. B. Narwade
APP for the Respondent – State : Mr. G. O. Wattamwar
Advocate for Respondent No. 2 : Mr. S. S. Chapalgaonkar

...

CORAM : M. G. SEWLIKAR, J.

DATED : 30-03-2022

PER COURT :-

1. By this application, the applicant is seeking bail in connection with Crime No. 0250/2021, under Sections 376 (1), 354(A) (D), 384, 385, 387, 504, 506 507 read with Section 34 of the Indian Penal Code and u/s. 4, 8, 11(4), 12 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act), registered with Police Station Rahata, District Ahmednagar.

2. Facts in brief are that the informant is a Class XII student. On 23rd June, 2020 she received a message on mobile from the

applicant texting 'Hi'. She did not reply to that message. She kept on receiving such messages. She therefore, inquired with the sender as to who he was. It transpired that he was the applicant who was texting her messages. Thereafter, applicant/accused started chatting with the victim. He started talking with the victim on mobile. The applicant expressed his desire to meet the victim. On 2nd September 2020, applicant met the victim in front of Rahata Tahsil Office and spoke to her for 10 minutes and went away. After two days, he again met her at Rahata Tahsil Office. At that time applicant had clicked some photos with her on his mobile handset. Thereafter applicant proposed her. Victim declined his proposal. Applicant, thereafter, started blackmailing her saying that he would make the photos and chats viral. Victim thereafter, severed all contacts with the applicant. However, in the last week of September 2020, applicant disclosed her that he was hospitalized as victim refused to talk to him and on that count applicant had consumed pills. He further stated that he wanted money for the treatment. Victim paid him Rs. 17,000/-. Again he demanded Rs. 20,000/- from her which she gave in cash to one Tejas Sonwane. Again she paid Rs. 1,00,000/- to the applicant as applicant had threatened her of making her photographs viral. Applicant had threatened her of acid attack if she did not speak to him. Therefore, victim kept on meeting

him. When the father of the victim realized that cash of Rs. 1,00,000/- was missing from the house, he inquired with the victim. At that time victim told him about the harassment perpetrated by the applicant.

3. On 2nd August, 2021, applicant had taken her to a hotel and committed penetrative sexual assault on her. When father of the victim came to know the harassment by the applicant, victim lodged the FIR. Even thereafter, applicant started harassing her and therefore, she lodged the present FIR on the basis of which Crime No.250/2021 came to be registered.

4. Heard Shri Narwade, learned counsel for the applicant, Shri Wattamwar, learned APP for the Respondent – State and Shri S. S. Chapalgaonkar, learned counsel for the informant / respondent No.2.

5. Shri Narwade, learned counsel for the applicant submits that the applicant has been falsely implicated in this case. He submits that there is no record to show that an amount of Rs. 1,37,000/- was paid by the victim to the applicant. He further submits that there is no medical evidence indicating that the accused / applicant committed penetrative sexual assault. He further submits that in the first FIR there was no allegation

about the penetrative sexual assault. He further submits that the applicant, if released on bail, will stay out of the District.

6. Shri Wattamwar, learned APP and Shri Chapalgaonkar, learned counsel for the informant to assist APP submit that the applicant extorted an amount of Rs. 1,37,000/- from the victim. They further submit that the applicant had given serious threats to the victim. They submit that the applicant had threatened the victim of acid attack. He put her under constant fear and taking advantage of her minority, he not only extorted a huge amount of Rs. 1,37,000/- but also ravished her. They submit that if the applicant is released on bail he will be a menace to the victim and her family members. They further submit that there is record to show that an amount of Rs. 17,000/- was transferred by the victim to the account of the applicant. They submit that having regard to all this, applicant may not be released on bail.

7. Statement of the victim under Section 164 of Cr.P.C. shows that the allegations made therein are consistent with the allegations in the FIR.

8. I have given thoughtful consideration to the submissions made by all the learned counsel. The first FIR is dated 06th

August 2021. The incident of penetrative sexual assault, as per the FIR, is dated 02nd August 2021. Even the allegations of penetrative sexual assault do not find place in this FIR. After lodging of this FIR, crime came to be registered but no charge-sheet is filed.

9. So far as extortion of amount is concerned, no account statements are produced to show that an amount of Rs. 10,000/- or Rs. 17,000/- was transferred to the account of the applicant. So far as other amount of Rs. 1,00,000/-, 20,000/-, 17,000/- are concerned, it is alleged that they were paid in cash. Whether so much cash was available in the house of the victim is a matter to be considered during trial. At this stage, considering the fact that the victim did not incorporate the allegations of her ravishment in the first FIR, and considering the fact that the applicant has no criminal antecedents and that he is not likely to flee from justice, I am inclined to release the applicant on bail. Hence, the order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant be released on P.R. Bond of Rs. 30,000/- (Rupees Thirty Thousand only) with one solvent surety in the like amount in connection with Crime No. 0250/2021, under Sections 376 (1), 354(A) (D), 384, 385, 387, 504, 506 507 read

with Section 34 of the Indian Penal Code and u/s. 4, 8, 11(4), 12 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act), registered with Police Station Rahata, District Ahmednagar and on condition that he shall not keep any contact with the victim or any of her family members till the conclusion of the trial and that he shall stay out of the District Ahmednagar till the conclusion of the trial except attending the dates fixed during the trial by the Court.

(iii) Bail Application is disposed of .

(iv) 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, J.]

shp/-