

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3529 OF 2021

Prabhu Mallapa Uppar

.. Applicant

Versus

State of Maharashtra & others

.. Respondents

Mr. R. C. Barge, Advocate for the Applicant.

Mr. Hema M. Whaval, Advocate for Respondent No. 2.

Ms. M. R. Tidke, APP for the Respondent-State.

Mr. Adinath J. Bhosle, P.N.- 421, Miraj Lohmarg Police Station, Pune,
present.

CORAM : VINAY JOSHI, J.

DATE : 25th APRIL, 2022.

P.C.:

. The applicant is seeking regular bail in Crime No. 16 of 2021, registered with Miraj Lohmarg Police Station, District Pune, for the offence punishable under Sections 363, 364, 376, 376AB, 307 of the Indian Penal Code and Sections 4, 6, 8 and 12 of the POCSO Act, 2012.

2. By claiming innocence it is submitted that the identity of accused has not been established. There is no eye witness to the occurrence, however, on mere suspicion he has been arrested at Bhusawal railway station. Moreover, it is submitted that the applicant is serving in military, therefore, there are no chances of tampering or absconding. The State resisted bail

by pointing towards the seriousness of the offence. It is submitted that the applicant has not only sexually assaulted the minor victim aged 8 years, but has thrown the victim from running railway compartment. With the assistance of both sides, perused police paper and various statements recorded during the course of investigation. The victim's mother has stated that on the date of occurrence, while they were traveling from Vasco to Delhi by train, she alongwith her three daughters had slept on Birth Nos. 25, 26, 27 and 28 in S-7 coach. In the morning, when T.C. came to inquire that whether any girl is missing, on which they found that her daughter minor girl aged 8 years was missing. The said minor victim was found lying on railway track, therefore, she was shifted to the hospital. The Informant mother rushed to the hospital, where the victim disclosed that on earlier night a fellow passenger, who had slept at Birth No. 29, forcibly took her to the latrine, sexually assaulted her, and when she raised alarm, thrown her from the railway compartment.

3. My attention is invited to the statement of the victim recorded by the police as well as by the learned Magistrate under Section 164 of the Code of Criminal Procedure. The victim stated that a person, who had slept on the birth opposite to her birth, had did this. Particularly a railway reservation chart is produced to show that birth No. 29 was occupied by the applicant. The incident is of serious nature. A minor girl while traveling by train was forcibly taken to latrine, sexually assaulted and thrown from the running train. The victim is minor girl. There is ample material to indicate direct role of the applicant. During TI parade, the minor victim has identified the applicant accused. The applicant is serving in armed forces. Despite

protecting the citizens, he has sexually assaulted the minor. The act of throwing child from running train is quite serious. Having regard to above facts, this is not a fit case to grant bail, hence, the application stands rejected.

(VINAY JOSHI, J.)