

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

CRIMINAL BAIL APPLICATION NO.2485 OF 2021

Shyam Kamdev Mandal	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Monty Teckchandani, Advocate for the Applicant.
Mr. P.H. Gaikwad, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.I-121/2019 registered at Manpada police station, District-Thane under Section 376 of the Indian Penal Code and Sections 3, 4, 5, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The Applicant was arrested on 24.2.2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Shri Monty Teckchandani, learned counsel

for the applicant and Shri P.H. Gaikwad, learned APP for the State.

3. The FIR is lodged by the mother of the victim. The victim was five years of age. She has stated that on 24.2.2019 in the morning, the victim told about the rape committed by the applicant on her. On this basis, the FIR was lodged.

4. Learned counsel for the applicant submitted that there is variance in the statement recorded under Section 164 of Cr.P.C. and other statement. He submitted that the statement of the victim recorded under Section 164 of Cr.P.C . does not show that rape was committed.

5. Learned APP opposed this application. He relied on the statements of the victim in particular. He also relied on the Chemical Analyzer's report regarding blood found on the victim's clothes. He submitted that there are two other criminal antecedents against the applicant.

6. I have considered these submissions. The victim has very clearly stated as to how the applicant had committed this offence. She has stated about the penetrative sexual

assault. Her statement under Section 164 of Cr.PC. also corroborates her statement before the police. The victim's clothes were seized and were sent for chemical analysis report. Result of analysis shows that the semen stains found on the victim's clothes matched with the DNA profile of the applicant. All these factors are clinching evidence against the present applicant. The offence is very serious. No case for grant of bail is made out. The application is rejected.

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by
PRADIPKUMAR
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DESHMANE
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2022.01.17
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(SARANG V. KOTWAL, J.)

Deshmane (PS)