

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

CRIMINAL BAIL APPLICATION NO. 2777 OF 2021

Shivaji Nana Sangale

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Aniket U. Nikam a/w. Mr. Piyush Toshnival i/b. Mr. Vivek N. Arote, for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent/State.

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**CORAM : C.V. BHADANG, J.
DATE : 22 MARCH 2022**

P.C.

. By this Application, the Applicant – Accused is seeking release on bail in Crime No.33/2021 of Police Station Kalwan, District Nashik, under Section 376 and 506 of IPC.

2. The aforesaid crime is registered on the basis of complaint dated 12 April 2021 lodged by the prosecutrix who at the relevant time was 18 years and 4 months of age. The informant was doing a job with Soham Enterprises of the Applicant. The Applicant was engaged in the business of installation of CCTV cameras. On 3 April 2021, the informant had accompanied the

Applicant and one Rahul Khole to *Sharad Pawar International School, Kalwan*, for installation of CCTV cameras. They stayed at the guest house of the school. The informant stayed in Guest House No.1 while the Applicant alongwith Rahul Khole stayed in Guest House No.3. It is the material allegation that in the night intervening between 5 April 2021 and 6 April 2021, the Applicant asked the informant to come and sleep in his Room No.3 and asked Rahul Khole to sleep in Room No.1. Accordingly, the informant went and slept in Room No.3. She claims that in the night the Applicant had sexually abused her. The following morning, the Applicant dropped the informant at Nashik. It appears that the complaint of the incident was lodged with Police Station Bhadrakali, Nashik on 6 April 2021 which was subsequently transferred to Police Station Kalwan, District Nashik on 12 April 2021. During the course of investigation, a supplementary statement of the informant as well as other witnesses were recorded. The informant was referred for medical examination and after completion of investigation, a chargesheet is filed. The Applicant was arrested on 12 April 2021 and is in custody since then.

3. I have heard the learned counsel for the parties. Perused record.

4. It can be seen that the Applicant was subjected to medical examination on 7 April 2021 i.e. the next day of the incident and the medical report does not show that the informant was subjected to forcible sexual intercourse. A perusal of the report shows that there were no fresh injuries or bleeding found on the hymen except that there were an old tear at 3 o'clock position. The Medical Officer has reserved the opinion pending availability of the reports of the samples collected. It can thus be seen that at this stage, there is no medical opinion supporting the allegation of the informant of show being subjected to forcible sexual abuse.

5. The learned counsel for the Applicant pointed out that the Applicant had noticed an affair between the informant and Rahul which was informed to the relatives of the informant, after which, feeling annoyed, the informant has falsely implicated the Applicant.

6. In my considered view, at this stage, it is not necessary to examine the said allegations, which can be done at the stage of trial. I find that the medical opinion does not support the claim of the informant at this stage. The informant is major and has attained the age of consent. The investigation is complete and the chargesheet is filed and therefore, further detention of the

Applicant behind bars pending trial may not be justified. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Shivaji Nana Sangale, be released on bail in Crime No.33/2021 of Police Station Kalwan, District Nashik, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.
- (iv) The Applicant, shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.
- (v) Bail bonds to be furnished before the learned Sessions Judge.

(C.V. BHADANG, J.)