

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

CRIMINAL BAIL APPLICATION NO.2919 OF 2021

Sajid Barkat Khan	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Ishaque Abdul Aziz Shaikh, Advocate for the Applicant.
Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 07th JANUARY, 2022
[THROUGH VIDEO CONFERENCING]

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.29 of 2021 registered with Waliv police station, Vasai under Sections 376(3), 366-A of Indian Penal Code and Sections 4, 6, 8, 17 and 18 of the Protection of Children from Sexual Offence Act, 2012.

2. The applicant was arrested on 10.1.2021 and since then he is in custody. The charge-sheet has been filed against the applicant.

3. Heard Mr. Ishaque Abdul Aziz Shaikh, learned counsel for the Applicant and Mr. Ajay Patil, learned APP for the Respondent-State.

4. The FIR is lodged by mother of the victim. The victim was 13 years of age at the time of incident i.e. on 8.1.2021. At about 9.00 p.m., the victim had gone to connect the pipe for water supply. She came back at 10.00 p.m. At about 2.00 a.m. in the night, the victim woke up and told her mother about the pain in her private parts. The victim was scared. Therefore, informant did not ask her further. But on the next date, the victim was taken to hospital. At that time the victim told the informant that in the night, the applicant had taken her forcibly in a dark place and had committed rape. Thereafter, she lodged FIR on 9.1.2021.

5. Learned counsel for the applicant submitted that there is no proof that the victim was 13 years of age. He submitted that the place was crowded and, therefore, it was not possible for the applicant to commit the offence. He submitted that there is mention of Palak Chachi who is the

main accused. He further submitted that the medical report does not support the prosecution case. According to learned counsel for the applicant, there is nothing to show that the victim was disturbed after the incident.

6. Learned APP opposed this application. Learned APP relied on the statement of the victim recorded under Section 164 of Cr.PC. and the medical papers.

7. I have considered these submissions. The victim narrated that on 8.1.2021, at about 9.00 a.m. she had gone to connect pipe for water supply and, thereafter, she had gone to the house of one Palak chachi. She took the victim to a dark place and made a phone call to the applicant. The applicant came there. He took the victim forcibly to a secluded place and committed forcible sexual intercourse. The victim had got scared and, therefore, did not tell her mother. In the night, she suffered bleeding and, therefore, she was forced to tell her mother. On the next date, the victim informed her mother about the incident.

8. The statement of the victim recorded under Section 164 of Cr.P.C. is similar. However, she had added that at that time, she shouted and two persons came at the spot. The applicant threatened them. The medical examination of the victim shows that there were corresponding injuries.

9. Thus, the victim's version is supported by the medical evidence. The offence is very serious. No case is made out for bail. Bail Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)