

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

CRIMINAL BAIL APPLICATION NO. 3664 OF 2021

Baban Kisan Warkari

...Applicant

vs.

The State of Maharashtra & Anr.

...Respondents

Mr.Priyal G. Sarda for Applicant.

Mrs.M.R. Tidke, APP for State.

Mr.Yurraj Dhole for Respondent No.2.

Mr.Snehal Anil Jadhav, PSI, Warje Malwadi Police Station, Pune City.

CORAM : C.V. BHADANG, J.

DATED : 31 MARCH 2022

P.C. :

. By this application, the Applicant is seeking release on bail in C.R.No.2117/2020 registered with Warje Malwadi Police Station, Pune for offences punishable under Sections 376 (A) (B), 376(3) of IPC and Section 4, 5(m), 6, 8, 10 of Protection of Children from Sexual Offences Act and under Section 4/25 of Arms Act.

2. The aforesaid crime is registered on the basis of the complaint dated 7.8.2020 lodged by the mother of the victim girl. The victim was aged about 12 years on the date of the incident and was studying in 6th standard. The victim states that on 5 August 2015, at about 3.00 p.m., she along with her friend had gone to the shop of the applicant for purchasing pickles. Her friend went to the washroom which was nearby. The victim claims that the Applicant is having his house abutting the said shop. It is the material allegation that the victim asked the Applicant about pickle.

The Applicant stated that he is not having it, after which the Applicant is alleged to have forcibly taken the victim to his house, bolted the door from inside and had forcible sexual intercourse with her by threatening her with knife. The victim informed about the incident, on the following morning, to her mother whereupon a complaint was lodged and offence was registered and after investigation, a chargesheet is filed.

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

4. There is no much of a dispute about age of the child, which is about 12 years. However, it can be seen that the medical examination of the victim does not conclusively show that the victim was subjected to penetrative sexual assault.

5. Learned Counsel for the Applicant pointed out that the victim has alleged a similar incident against one Appa @ Gahininath Shinde some eight months prior to the present incident. It is informed that the said Appa @ Gahininath Shinde has been released on bail by the learned Sessions Court by order dated 20.10.2020 in Criminal Bail Application No.3192/2020, which order has been accepted by the prosecution as the same has not been challenged.

6. The Applicant has been arrested on 7 March 2020. The investigation is complete and the chargesheet is filed.

7. It is made clear that the observations herein are for the purpose of deciding the application for bail. The learned Special Judge should not be influenced by the same at the trial.

7. In that view of the matter, the following order is passed :

ORDER

(i) The Applicant - Baban Kisan Warkari be released on bail, on executing a P.R. Bond in the sum of Rs.25,000/-with one or two solvent sureties in the like amount.

(ii) The Applicant shall undertake to remain present before the learned Special Judge during the trial, unless exempted.

(iii) The Applicant shall not make any contact directly or indirectly or influence or threaten the prosecution witnesses and shall not otherwise tamper with the prosecution evidence/witnesses.

(iv) The Applicant shall report to Warje Malwadi Police Station, Pune on 1st Monday of each month during the course of trial.

(v) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(vi) The bail bonds to be furnished before the learned Special Judge.

(vii) The Criminal Application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)