

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

CRIMINAL BAIL APPLICATION No. 4265 OF 2021

VAISHALI
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Date: 2022.03.22
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Mohammad Masood Ruban
Vs.

...Applicant

The State of Maharashtra

...Respondent

Mr. Zaid Qureshi for Applicant
Mr. R.M. Pethe, APP for State

CORAM : C.V. BHADANG, J.

DATE : 17 MARCH 2022

P.C.

1. By this Application, the Applicant is seeking bail in Crime No. 109/2021 registered at Samarth Road Police Station, Pune City on 11 June 2021. The Applicant has been chargesheeted for the offence punishable under Section 376, 506, 507 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. The aforesaid crime is registered on the basis of the complaint dated 11 June 2002 lodged by mother of the victim girl. During the course of the investigation, the statement of the victim came to be recorded. The record discloses that as per the Birth Certificate issued by the Thane Municipal Corporation, the date of birth of the victim is 15 July 2001. Thus, on the date of incident, i.e. 18 May 2021, the victim was 16 years and 5 months of age. A perusal of the FIR as well as the statement of the victim,

shows that the victim had a quarrel on some domestic issue with her mother on 16th May 2021. Being annoyed , the victim left the house at about 11.30 a.m. on 18 May 2021 and telephonically contacted the present Applicant, who happens to be the husband of the maternal aunt of the victim. According to the victim, the Applicant asked her to come to Pune and paid the taxi fair by an online transaction. The Applicant came at Pune Railway Station. The Applicant and he alleged to have taken her to a lodge, where she was sexually abused during the night intervening between 18 May 2021 and 19th May 2021. According to the victim, the accused threatened her and told her not to disclose the incident to anyone. On 19 May 2021, the applicant dropped the victim at her house at Mumbra. According to the victim, due to threats given by the accused, she did not inform the incident to anybody. The victim informed about the incident to her mother on 3.6.2021 after which the complaint came to be lodged on 11 June 2021. During the course of investigation, the medical examination of the victim was conducted, in which, she had given a history that after drinking water at the lodge, she felt giddy and during the night, she found that she was sexually molested.

4. Be that as it may, I have heard learned counsel for the parties and perused the FIR. It appears that the victim had attained 16 years and 5 months of age. She had left the home on her own, she was aware of the consequences of the act. There is substantial delay in this case in lodging the complaint. Even according to the victim she did not

inform the incident immediately to her parents, after she returned home. The investigation in the offence is complete and the chargesheet is filed. The Applicant is in custody since 24 June 2021.

5. In this case there is an additional reason inasmuch as the mother of the victim has filed an affidavit stating that the complaint was filed out of some misconception and has given her no objection for releasing the Applicant on bail. It is made clear that normally this Court may not accept such affidavit, for releasing the applicant on bail. However, considering that there is a substantial delay in lodging the FIR and discrepancies in the medical history given to the medical officer and the fact that the investigation is complete and chargesheet is filed, in my view, the applicant has made out a case for grant of bail.

5. In the result, the following order is passed:

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Mohammad Masood Ruban be released on bail in Crime No. 109/2021 of Police Station Samarth Road, Pune City 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 Special Court 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 witness.

(v) The Applicant shall not enter Thane District during the course of trial.

(vi) It is made clear that the observations made herein are *prima facie* in nature, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

(C.V. BHADANG, J.)