

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

914 BAIL APPLICATION NO.1101 OF 2023

**ANAND @ MACCHU PARMESHWAR GHULE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. Nirmal Ramchandra J.

APP for Respondents: Mr. K.S. Patil.

Advocate for Respondents : Mr. R.N. Bharaswadkar.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 29th AUGUST, 2023

ORDER :-

The applicant seeks bail in connection with Crime No. 371 of 2022 registered with police station, Sailu, Dist. Parbhani for the offence punishable under sections 363, 366A, 376(2)(i), 376(2)(i), 376(DB), 323, 506 r/w. 34 of I.P.C. and Sections 4,6, 8,12, 21 of POCSO Act

2. The investigation has been set in motion on the information given by respondent No.2 mother of victim. It is alleged that daughter of the informant aged about 10 years and her cousin brother aged 6 years, were kidnapped by the accused persons and they have committed rape on her daughter. In pursuance to the registration of offence, the applicant and another accused were arrested. The prayer of the applicants for grant of bail has been rejected by the Sessions Court. Hence, the present application.

3. Mr. Nirmal, learned advocate for applicants would submit

that the applicant is behind bars since 6.9.2022. He would submit that the applicant was hardly 21 years of age at the time of offence. He would submit that initially FIR was registered against unknown persons and thereafter the applicant has been roped in as an accused. He would submit that investigation is complete. Charge sheet is filed. Further detention of the applicant would not be necessary. As such, he urged to grant bail.

4. Mr. Patil, learned APP and Mr. Bharaswadkar learned counsel for the informant vehemently opposed the application on the ground that there is ample evidence to show involvement of the applicant in the commission of heinous crime. They would point out that there is CCTV footage that shows the applicant in the company of the victim. They would submit that the identification parade is carried before the Tahsildar in which both the victims have identified the applicant. They would further submit that the medical evidence supports the commission of offence. They would further point out that victim was just aged 10 years. There is sufficient material to bring home guilt against the applicant. In case of release of the applicant, there is a possibility of tampering the evidence. He is likely to create hurdles in smooth prosecution.

5. Having considered the submissions advanced, apparently, the FIR has been lodged against unknown persons. The victim is of tender age of 10 years only. The CCTV footage depicts that the accused persons carried the victim on motorcycle. The victim has identified the accused during the identification parade. There is sufficient evidence regarding identity of the applicant being the culprit of the offence. The medical

evidence shows that the victim was subjected to heinous crime of rape. The medical evidence is in tune with the other evidence on record. Prima facie, there is sufficient evidence that would disclose the commission of offence by the applicant. The CDR of the mobile phones also confirm the location of the applicant on the spot of the offence. There is recovery of descriptive clothes as indicated by victim from the accused. Under these circumstances, the evidence on record is sufficient to make out prima facie case against the applicant. In that view of the matter, no case is made out for grant of bail. The application stands rejected.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-