

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.1406 OF 2023**

**PRAVIN APPASAHEB BHALEKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. Govind R. Ingole, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.
Mr. S. P. Sonwane, Advocate for Respondent No.2.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 04th SEPTEMBER, 2023.

PER COURT:-

1. By this application, the applicant seeks regular bail in connection with Crime No.111/2023, registered with Tuljapur Police Station, Dist. Osmanabad for the offences punishable under Sections 376(3), 377 of the Indian Penal Code, Sections 4, 6, 8, 10, 12, 14 of the POCSO Act and Section 66(e) of the Information Technology Act.

2. The investigation was set in motion on information given by mother of the victim. It is specifically alleged that on 23.03.2022 the daughters of the informant were at home. At about 02.00 pm the informant alongwith her mother-in-law returned home, they saw that the accused is running away from the house and similarly, the elder daughter was wearing clothes. Her companion friend was also present there. When the informant enquired with the victim, she disclosed that accused shown them some videos and done sexual acts and also video-graphed through other victim. On looking to the videos, it was

found that the applicant has raped over the minor. The mobile phone of the accused was also handed over to the police. In pursuance of the aforesaid information, the crime is registered against the applicant for the aforesaid offences. The applicant has been arrested in pursuance of the aforesaid FIR on 25.03.2023 and he is behind the bar since then. On completion of investigation, charge-sheet is filed. The prayer of the applicant for grant of regular bail has been rejected by the Special Judge vide order dated 10.07.2023.

3. The learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated. There were some dispute of the applicant and his family with the parents of the victim. He would submit that the medical evidence do not support the allegation in FIR. He invites attention of this Court to the medical examination of the victim to contend that no symptoms of sexual intercourse were noted during the examination of the victim.

4. The learned APP however, vehemently opposes the application. It is contended that the victim is hardly aged 13 years. The applicant found to be indulged in similar activities, even in respect of the few other minor girls. The incidents are video-graphed. His mobile phone has been seized. The script of video found in mobile phone is also prepared. The statements under Section 164 are recorded. The victim is consistent about sexual acts committed by accused against her. He would, therefore, submit that there is clinching evidence against the applicant and his release may hamper the smooth trial.

5. Having considered the submissions advanced, it can be gathered that the victim is hardly aged about 13 years. The applicant was seen running out of the home of the informant in the afternoon on 23.03.2023. Immediately on enquiry with the victim, she has disclosed about heinous act done by the applicant against her, so also her companion, who is also a minor girl. The incident is video-graphed in the mobile phone of the applicant, which is seized. The script of the videos are prepared. The victim is consistent with her version in statement under Section 164 of the Code of Criminal Procedure. True that the medical evidence on record is silent about penetrative act, however, there is voluminous evidence to indicate that the applicant has attempted the commission of rape and such incident is video-graphed by him. Pertinently, this is not solitary incident. The applicant found to be involved in similar acts previously and Crime No.121/2023 is registered against him and he is facing prosecution for the same.

6. In that view of the matter, no case is made out for grant of bail. The Bail Application is rejected.

(S. G. CHAPALGAONKAR)
JUDGE