

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO. 2049 OF 2022**

Vijay Ananda Rite ....Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

Mr.Kiran Nikam, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for Respondent-State.

Mr. Rajaram V. Bansode for Respondent No.2.

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 12<sup>th</sup> SEPTEMBER, 2023.**

**P.C. :**

1. By this Application, the Applicant is seeking bail in Crime No. 259 of 2021 registered with Mhaswad Police Station, Satara for the offences punishable under Sections 363, 366, 366(A), 376 read with 34 of Indian Penal Code, ("IPC", for short) and under Sections 4, 6, and 17 of Protection of Children from Sexual Offences Act 2012 ("POCSO", for short).

2. It is the prosecution's case that, sister of first informant was kidnapped by the Applicant and he sexually assaulted her.

Complainant had lodged complaint that his sister was kidnapped by unknown person and on the basis of complaint FIR was lodged under Section 363 of Indian Penal Code. During investigation it was found that the Applicant had kidnapped the victim and sexually assaulted her. Thereafter section 376 of IPC and various sections of POCSO were added against the Applicant.

3. It is contention of learned counsel for Applicant that, victim's statement under section 161 of Criminal Procedure Code is recorded by police on 9<sup>th</sup> December, 2021 and in the said statement, she has stated that, she herself had called the Applicant and went with him. In the complaint, there is allegation against the Applicant about molestation of victim on next day i.e. on 10<sup>th</sup> December, 2021. Police recorded supplementary statement of victim. In the said statement, she has stated about sexual assault on her by the Applicant. Moreover, victim had denied to go for medical examination. Learned counsel further submitted that, Applicant has been falsely implicated in this case. He is behind bars more than 21 months. Hence, requested to allow the Application.

4. Learned APP submits that at the time of incident, victim was below 16 year's of age. In her statement, she has stated that, she was

sexually assaulted by the Applicant. Prima facie, statement of the victim needs to be considered. There is prima facie case against the Applicant, if Applicant his released on bail he may threaten the victim and prosecution witnesses. Hence, requested to reject the Application.

5. Learned counsel for Respondent No.2, reiterated the submission's of learned APP.

6. I have heard both learned counsel. Perused the FIR and charge-sheet.

7. Admittedly two statements of the victim are recorded by the police. In statement dated 9<sup>th</sup> December, 2021 the victim had not made allegation against the Applicant about sexual assault and on next day i.e. on 10<sup>th</sup> December, 2021, she has made allegation against the Applicant that Applicant had sexually assaulted her. The victim has refused to under go medical examination. There is contradiction between two statement's moreover, no medical examination was done to support the allegation of sexual assault. The Applicant is behind bar for more than 21 months. Investigation is completed and charge-sheet has been filed.

8. Considering the above facts, further detention of Applicant is not required.

9. In view of above, I pass following order.

**ORDER**

(i) The Applicant be released on bail in Crime No. 259 of 2021 registered with Mhaswad Police Station Satara on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Satara Police Station, once a month i.e. on every 1<sup>st</sup> Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

**(SHIVKUMAR DIGE, J.)**