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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.4239 OF 2021**

Sagar Balkrishna Katarak	... Applicant
V/s.	
1. The State of Maharashtra	...
2. XYZ	,, Respondent

Mr. Kuldeep U. Nikam with Mr. Prasad Avhad with Mr. Latpate for the Applicant.

Mr. Y. Y. Dabke APP for the Respondent-State.

Mr. Mahesh H. Chandanshiv (Advocate Appointed for Respondent No.2)

CORAM : S. M. MODAK, J.

DATED : 10TH JANUARY 2023

P.C:-

1. Heard learned Advocate Mr. Nikam for the Applicant, learned APP Mr. Dabke for the Respondent-State and learned Advocate Mr. Mahesh Chandanshiv for the first informant-complainant.

2. The Applicant is facing prosecution for committing rape on minor girl, not on single occasion but on various occasions and the Applicant claims that it was consensual intercourse. Learned Advocate Mr. Nikam also explained as to how the FIR was registered on 21st May 2021, at Pusegaon police station under sections 376(2) (f), 376(2)(n), 376(3), 452, 506 of the Indian Penal Code.

3. Initially, the victim and her mother were not ready to lodge

police complaint. However, when the mother came to know that menstrual period of victim has stopped, she took her to Navjeevan Hospital, Vaduj and there it was disclosed that she was pregnant for 18 to 20 weeks. As a matter of duty Navjeen Hospital disclosed this fact to Vaduj police station and they took entry into General diary and Pusegaon police station was informed. The Pusegaon police station have also taken entry on 20th May 2021.

4. The victim was taken before Child Welfare Committee, Satara. She was advised to terminate pregnancy and the committee also informed to the Pusegaon police station on 21st May 2021. Under these circumstances, the mother of victim lodged complaint on 21st May 2021 with Pusegaon police station and the offence as mentioned above was registered.

5. Considering above circumstances and the age of the Applicant as 27 years, bail is asked for. Learned APP for the Respondent-State and learned Advocate for the first informant opposed the bail and both of them have explained under what circumstances victim was sexually abused and it is submitted that she is victim of circumstances as her father is no more and the Applicant being their neighbor and relative committed rape on victim. It is also argued that if released on bail there will be further pressure on the prosecution witnesses. Learned APP has shown to me DNA report mentioning that the Applicant is biological father. Perused the papers. There is an order passed by the Division bench of this Court thereby permitting medical termination of pregnancy.

6. The circumstances mentioned on behalf of the prosecution suggesting that victim is really victim of circumstances may be correct but at the same time it is important to note that incident of rape has been repeated from December 2020 till January 2021. As the charge-sheet is already filed and considering the age of the Applicant, no further purpose will be served by keeping the Applicant behind bar. Considering such circumstances, one does not know about future of victim but today the Court is not expected to pass any observation. The Applicant is granted bail subject to certain conditions. Hence, the following order is passed ;

ORDER

- (a) The Applicant – Sagar Balkrishna Katarak be released on bail IN C. R. No.89 of 2021 registered with Pusegaon police station on furnishing PR bond and surety bond of Rs.25,000/- with one solvent surety in the like amount.
- (b) The Applicant is directed not to enter village Nidhal, Taluka Khatav, Satara until evidence of the prosecutrix and her mother is recorded by the trial Court.
- (c) The Applicant shall not threaten the prosecution witness.
- (d) The Applicant shall furnish alternate residential address and contact details to the Inspector of Police of the concerned police station at the time of furnishing bail and intimate the change, if any.
- (d) The Applicant shall regularly attend the proceedings before the trial Court.
- (e) If there is breach of any of the conditions, the police are at

liberty to apply for cancellation of bail and it will be considered on merits.

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

8. Learned Advocate appointed by the Maharashtra Legal Aid Services shall be paid fees as per Rules.

9. Application is disposed of in the aforesaid terms.

10. All the parties to act on an authenticated copy of this order.

(S. M. MODAK, J.)