

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

BAIL APPLICATION NO. 1281 OF 2022

Imran # Gattya Ijaj Bagwan ...Applicant
vs.
The State of Maharashtra ...Respondent

Adv. Sar Faraz Bagwan - Advocate for the Applicant
Mr. H. J. Dedhia - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 14th MARCH, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.
2. The Applicant is arrested for committing sexual intercourse with the victim and he is booked under Section Section 376 (2)(i) of the Indian Penal Code on the complaint of father of the victim. The offence is registered with Koregaon Police Station. The F.I.R. is lodged on the 19/07/2021. The victim was taken to the Sawant hospital, Koregaon on 08/07/2021 on account of pain in abdomen. The father has raised doubt on the Applicant. He has gifted mobile to his daughter. He has said that the Applicant has

given mobile handset to the victim. He has described the victim as of unsound mind. However offence is registered against unknown person.

3. However on 19/07/2021 his additional statement is recorded, wherein he has said that the act is committed by none other than the Applicant . However again on 21/07/2021, his additional statement is recorded wherein he has said that the mobile handset is purchased from the funds raised by him by selling buffalo.

4. On this background, Applicant is arrested. My attention is invited to the statement recorded of the victim under Section 164 of the Criminal Procedure Code, wherein she has said that the act of the sexual intercourse is with her consent. There she was found to be pregnant. Her pregnancy was terminated on 28/07/2021.

5. Today two reports are submitted. One is about the mental condition of the victim wherein she is described as having 25% disability in relation to her brain. The report is produced on record and the same is marked as 'Annexure-X' and second report is about DNA examination stating that the Applicant is biological father. The same is taken on record and marked as 'Annexure -Y'.

6. Learned APP has opposed the bail on the ground that

victim is suffering from 25% mental disability.

7. I am inclined to grant bail in view of the difference in the statement of the father of the victim and in view of the avernments of the victim in statement recorded under Section 164 of the Criminal Procedure Code. Hence following Order:-

ORDER

- (a) Bail Application is allowed.
- (b) The Applicant arrested in C.R. No. 187 of 2021 registered with Koregaon Police Station for the offence punishable under Section 376 (2) (i) of the Indian Penal Code be released on bail on furnishing Personal bond and surety bond in the sum of Rs.25,000/-.
- (c) The Applicant shall not threaten the prosecution witness.
- (d) Applicant shall not enter the village of Koregaon, Taluka District Satara till conclusion of the trial.
- (e) The Applicant shall furnish the alternate address to the trial court.
- (f) The Applicant shall regularly attend the proceedings before the trial Court.
- (g) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail.

8. It is made clear that the observations made herein are

prima facie, 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.

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.]