

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

BAIL APPLICATION NO. 3132 OF 2021

Shubham Pandharinath Chavan

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep Patil i/by Ms. Manisha Devkar - Advocate for the Applicant

Mr. N. B. Patil - APP for the Respondent-State

A. K. Patole – Police Officer, Dahiwadi Police station.

CORAM : S. M. MODAK, J.

DATE : 06th FEBRUARY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant-accused and learned APP Shri N. B. Patil for the Respondent-State.

2. There is an offence registered under Sections 376, 376 (2)(n), 506 of the Indian Penal Code and under Sections 66(e), 67, 67(e) of the Information Technology Act. It is registered on the complaint of one major girl (name hidden). With the assistance of both the sides, I have read it. She has mentioned that she was sexually abused and harassed by the Applicant in a very novel way.

3. There was multi parallel app downloaded on the

Complainant's mobile. The Applicant could download videos belonging to the Complainant is his mobile. With this technology, the Applicant used to record her private acts, whether it may be while bathing or other activities. Both were knowing each other and there was some intimacy. Even from the side of the Applicant, he was intending to marry her. However she realized his true nature and avoided him.

4. After getting information about proposed marriage of the victim girl, by threatening her, he ravished her. He continued the sexual exploitation by showing her the video recording.

5. The victim married with another boy (name deliberately not mentioned) on 08/08/2020. Even she was sexually exploited when she came to her parents house in between 08/10/2020 to 13/10/2020. The Applicant went to the extent of sending the video clip to the husband of the victim. The victim lastly narrated the true facts to her husband, then F.I.R. is lodged.

6. During investigation, the Police have arrested him and seized the mobile and pendrives and now they are sent to the forensic expert and report is awaited. There is statement recorded of the husband.

7. According to the learned Advocate for the Applicant, the avernments in the F.I.R. suggest that their relationship was consensual. Bail is asked considering age of the Applicant and through learned Advocate he undertakes to give undertaking that he is not having that abusive material and even he will not circulate it in future.

8. Learned APP opposed the bail considering the methodology adopted by the Applicant. He submitted that even the Applicant repeated the act of sexual exploitation even after marriage and he apprehends threatening of the witness if admitted the bail.

9. It is true that it is not the case wherein there is recording done clandestinely. Prima facie it appears that both were at different places and these recording is done in novel way. It is difficult to understand the psychology of the Applicant particularly when he went to the extent of sending this abusive material to the husband and even went to the extent of repeating the sexual exploitation after the marriage.

10. At this stage it is difficult to opine that it was done with consensus that is for the trial court to decide. The Applicant is behind bar since November 202. Investigation is completed and he is

waiting for trial. No purpose will be served by keeping him behind bar. Apart from the usual conditions certain additional conditions can be imposed. Hence the Order:-

ORDER

- (i) The Application is allowed.
- (ii) The Applicant-Shubham Pandharinath Chavan be released on bail in connection with C.R. No. 456 of 2020 registered with Dahiwadi Police Station on furnishing PR and surety bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- (iii) Prior to accepting the surety, the Applicant is directed to furnish undertaking to the trial Court that he does not possess any abusive material in any form.
- (iv) Furthermore, the Applicant to furnish an undertaking that in future he will not circulate any material if any in any form pertaining to him and the victim.
- (v) The trial Court to see that those undertakings are furnished prior to accepting the bail.
- (vi) The Applicant shall not threaten the prosecution witnesses and allure them in any manner.
- (vii) The Applicant is directed not to enter the Taluka Man of District Satara until the completion of the trial.
- (viii) The Applicant to furnish alternate place of residence to the trial Court prior to furnishing surety.
- (ix) Needless to say, violating of the condition above will make

the Applicable liable for cancellation of bail.

11. 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 law, uninfluenced by the observations made in this order.

12. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]