

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

**BAIL APPLICATION NO. 3371 OF 2021**

|                          |               |
|--------------------------|---------------|
| Sanjay Ramchandra Behra  | ...Applicant  |
| vs.                      |               |
| The State of Maharashtra | ...Respondent |

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MR. Ashish Uttam Singh i/by Mr. Satyendra Kumar Pandey -  
Advocate for the Applicant  
Mr. H. J. Dedhia - APP for the Respondent-State  
Ms. Payal Vardhan a/w Mr. Atal Bihari – Appointed Advocate for the  
Respondent No. 2.

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**CORAM :            S. M. MODAK, J.**

**DATE :             14<sup>th</sup> MARCH, 2023**

**P. C. :-**

1.            In spite of the provisions as per the Protection of Children from Sexual Offences Act, the learned Advocate for the Applicant has described the first informant by her name. Let her name be hidden. Amendment be carried out forthwith.
2.            Heard learned Advocate for the Applicant and appointed Advocate for the Respondent No.2-First informant-mother of the victim and learned APP
3.            The Applicant is claiming bail pending the trial in

connection with offence bearing C.R. No. 344 of 2017 registered at Narpoli Police Station under Sections 376 of the Indian Penal Code and under Sections 3 and 4 of the Protection of Children from Sexual Offences Act.

4. The victim used to attend the tuition conducted by the one Sonal Behra and she is wife of the present Applicant. The Applicant under pretext of taking a round used to take his two daughters and present Applicant for ride in his car. By taking the disadvantage, the Applicant ravished the victim on more than one occasion.

5. Last incident took place on 04/08/2017. There is 164 statement recorded of the victim. On 08/08/2017, when the neighbour Aishwarya Patil came to the first informant house and disclosed the fact about the misdeeds committed by the Applicant. Accordingly, F.I.R. is registered on 11/08/2017.

6. Learned Advocate for the Applicant invited my attention to 164 statement and medical certificate. According to him, the averments in the F.I.R. and the averments in 164 statement do not match with each other and even medical certificate does not corroborate the story stated by the victim in her statement. Whereas

learned Advocate for the first informant submitted that there are repeated instances.

7. Learned Advocate for the Applicant also tried to contend that there was financial transaction in between him and the father of the victim and earlier to lodging of the F.I.R. he has tried to take help of the police as he was beaten by father of the victim.

8. On the point of delay in conducting the trial, he relied upon judgment in case of *Laxman Arjun Dongre Vs. The State of Maharashtra*<sup>1</sup> and on consideration of bail, he relied upon the judgment in case of *Gudikanti Narasinhulu and Ors. Vs. Public Prosecutor, High Court of Andhra Pradesh*<sup>2</sup>.

9. Learned Advocate for the first informant relied upon judgment in case of *Ramkrshna S. Kumbhar Vs. The State of Maharashtra and Anr.* This Court has observed delay in lodging the F.I.R., in such type of cases cannot be considered in favour of the Applicant-accused.

10. The charge is already framed. Learned APP submitted that summons is already issued to the victim. It is true that Applicant is behind bar since 2017 and priority needs to be given for disposal

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1 Criminal BA No 1482 of 2021 decided by this Court on 23/06/2021

2 Decided by SCC on 06<sup>th</sup> December 1977

of the trial.

11. Considering the allegations, on merits, I am not inclined to grant bail. The points agitated on behalf of the Applicant can be argued before the trial court and trial court can deal them as per merits. It may be true that bail can be granted if the trial has not commenced after long period. However in this case the summons is already issued to the victim, the prayer for bail cannot be considered. Trial can be expedited. Hence the order:-

**ORDER**

- (i) Bail Application is dismissed.
- (ii) Court seized of the matter is directed to give priority to this matter and dispose it as early as possible.

12. Office to communicate this order to court seize of the matter.

13. Parties to act on an authenticated copy of this Order.

14. Office to pay necessary fees to an advocate appointed for the Respondent No. 2 as per Rules.

**[S. M. MODAK, J.]**