

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

CRIMINAL BAIL APPLICATION NO. 2383 OF 2022

Shankar Suresh Govandi

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Vikrant V. Phatat, for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent-State.

Ms.Preeti Gokhale, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th OCTOBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.7 of 2022 registered with Akkalkot North Police Station, District-Solapur, for the offence punishable under Sections 354 and 307 of the Indian Penal Code ('IPC' for short) and Section 8 of the Protection of Children from Sexual Offences, Act, 2012 ('POCSO for short).

2. It is prosecution's case that, on 6th January 2022 at about 1.00 p.m. Applicant had informed to the grand mother (first informant) of the victim stating that, while playing victim fell down from the stair case and she has been injured, first informant took victim to the hospital, she was treated there, then they returned to home. First informant asked victim how she got injured, she stated that, Applicant had given Rs.5 and asked her to bring biscuit's, accordingly she brought. Thereafter, Applicant took her in his house and tried to throttling her. She shouted loudly hence Applicant released her. First informant told this fact to her husband. In night time victim woke up suddenly and she was frightened, when mother of victim and first informant asked her what happened she told that, she remembered the happened incident that, Applicant had tried to throttle her by taking inside his room and beaten her. Thereafter Complaint was filed against Applicant.

3. It is contention of the learned counsel for the Applicant that, there is two days delay in filing the FIR. The Applicant himself had informed the first informant about injury of victim. There are no marks of any injury on the neck of the

victim. Applicant has been falsely implicated in this case. Applicant is behind bar more than 22 months. Yet charge has not been framed. Hence, requested to allow the Application.

4. The learned counsel for Respondent No.2 submitted that, victim was 6 years old. Victim has specifically stated that, Applicant had called her to bring the biscuit packet and she had complied the order of the Applicant, thereafter, Applicant took her in his house, closed the door, beaten up her and tried to throttle her. There is no reason to the victim girl to state against the Applicant. There is *prima facie* case against the Applicant.

5. The learned counsel for Respondent No.2 relied on the case of (i) **Bhagwan Singh V/s. Dilip Kumar** (2023-SCC-Online-1059, (ii) **Prasanta Kumar Sarkar V/s. Ashis Chatterjee and Anr.** (2010) 14 SCC 496 and (iii) **Ms.N V/s. State & Anr.** (High Court of Delhi; CRL M.C. 3399/2023, 28-08-2023).

6. The learned APP reiterates the submission of the learned counsel for Respondent No.2.

7. I have heard all learned counsel. Perused FIR and charge-sheet.

8. Allegations against the Applicant are that, he beaten up the victim and tried to throttle her. There is two days delay in filing the complaint, whether Applicant had tried to kill the victim is a part of trial. The Applicant is behind bar more than 22 months. Yet trial has not been started it may take time to conclude the trial. Hence, further detention of the Applicant is not required. I have gone through the case laws cited by the learned counsel for Respondent No.2, the facts of the cited case and present case are different, as in present case. There is two day's delay in filing the FIR. The evidence is required to consider alleged act of Applicant.

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

ORDER

(i) The Applicant be released on bail in Crime No.7 of 2022 registered with Akkalkot North Police Station, District-Solapur 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 Akkalkot North Police Station, District-Solapur once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall not enter in the village Wagdhari, Taluka-Akkalkot, where the victim and witnesses stays, till recording of the evidence of the victim.
- (iv) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (v) The Trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by the observations made in this order.
- (vi) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)