

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2480 OF 2022

Mahadev Nagnath Saravade ... Applicant

V/s.

State of Maharashtra and Anr. ... Respondents

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Ms. Vilasini Balsubramaniam i/b. J.D.Mane, Advocate for Applicant.
Mr. A. A. Palkar, APP for Respondent-State.
Ms. Devyani Kulkarni, Advocate for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 7 OCTOBER, 2023

P. C:-

1. By this Application, Applicant is seeking bail in C.R.No. 289 of 2022 registered with Mohol Police Station, Solapur for the offences punishable under Sections 376, 363, 354 of Indian Penal Code, 1860 (for short "IPC") and under Sections 4, 6, 12 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

2. It is the prosecutions' case that on 06.04.2022 first informant lodged missing complaint of her daughter making allegations against the Applicant. On 08.04.2022 in investigation police arrested Applicant and victim girl. On 08.04.2022, statement

of victim girl was recorded. She has stated in her statement that on 08.04.2022 at about 4.30 p.m., Applicant made phone call on mobile of her mother and made enquiry about the victim. After some time, Applicant came to victim's house and stated her that he is going to marry with her and her marriage is fixed with him. On that pretext he sexually assaulted her. On the same day at about 5.45 p.m., Applicant again phoned victim and asked her to come at particular place. Thereafter, he took the victim and ran away. Thereafter, he took the victim to Kdgaon, at his friends house and thereafter he left the victim at his house. It is alleged that Applicant sexually assaulted the victim on two occasions by giving false promise of marriage.

3. It is contention of learned counsel for Applicant that victim herself had gone with the Applicant. The marriage was fixed between the victim and Applicant. In the statement before the Medical Officer, victim has denied that sexual assault was done on her. Medial report does not corroborate the allegations of sexual assault on victim. Applicant is behind the bar ore than 18 months. He is 22 years old. Hence, requested to allow the Application.

4. Learned APP submitted that at the time of incident victim was 14 years old. Applicant was aware about it. He sexual assaulted her on two occasions by giving false promise of marriage.

Victim had stated about incident before the police. There is *prima facie* case against the Applicant.

5. Learned Counsel for Respondent No.2 reiterates the submission of learned APP.

6. I have heard all learned counsels. Perused the FIR and charge-sheet. It is alleged that, Applicant had sexually assaulted to the victim on two occasions. At the time of medical examination, the victim has given statement that she had not assaulted sexually. The medial papers brought on record does not show victim girl was sexually assaulted. It is not corroborating the version of sexual assault by the Applicant. Applicant is behind the bar more than 18 months. Investigation is completed and charge-sheet has been filed. Applicant is 22 years old. Considering above facts his further detention is not required.

7. In view of the above, I pass following Order :

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 289 of 2022 registered with Mohol Police Station, Solapur, on executing PR.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00

a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The application is allowed in the aforesaid terms and is accordingly disposed off.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

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

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KILAJE

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(SHIVKUMAR DIGE, J.)