

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

CRIMINAL BAIL APPLICATION NO. 2912 OF 2022

Ram Avtar @/o Bhaiyaram Saroj

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Nitin Gaware Patil a/w Mr.Anandmaya Dhorde, for the Applicant.

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

Mr.Narayan Rokade, for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th OCTOBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.01 of 2021 registered with Bhoiwada Police Station, Thane, for the offence punishable under Sections 363, 366, 376(2)(j)(n) of the Indian Penal Code ('IPC' for short) and Sections 4,8 and 12 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO' for short).

2. It is prosecution's case that, the Informant, father of victim lodged complaint with Bhoiwada Police Station alleging that, his daughter aged 17 years was missing. On his complaint police registered the offence. In investigation police located the victim on 15th January 2021. It is alleged that, in her statement the victim narrated that, she was acquainted with Accused No.1 namely Deepak as he used to come at her house for lunch as father of the victim was running mess. It is alleged that, on 2nd January 2021 at about 4.00 p.m. the victim got a call from Accused No.1 to come outside her home and Accused No.1 forcibly put the victim into an auto rickshaw and took her to the place of Accused No.2 Buddhulal Gupta. It is alleged that, in between 2nd January 2021 to 13th January 2021 Accused No.1 had sexually assaulted the victim on the pretext of marriage.

3. It is further alleged that, Accused No.2 also sexually assaulted the victim. Thereafter, Accused No.1 and 2 were arrested. On 31st March 2021, the police recorded supplementary statement of the victim and in the said statement victim stated that, she was having love affair with the Applicant since October

and in the month of October and November the present Applicant sexually assaulted her and Applicant threatened to defame the victim, if she disclosed the relationship. Thereafter, the Applicant was arrested.

4. It is contention of the learned counsel for the Applicant that, in initial statement victim has not stated about sexual assault by the Applicant. After two months of the initial statement in supplementary statement, she has stated about role of the Applicant. There is two months delay in giving the statement against the Applicant. Applicant has been falsely implicated in this case. Hence, requested to allow the Application.

5. It is contention of the learned APP that, allegations against the Applicant are that, he had sexually assaulted the victim. Victim has specifically stated about the role of the Applicant. There is *prima facie* case against the Applicant. If the Applicant is released on bail he may threaten prosecution witnesses. Hence, requested to reject the Application.

6. I have heard both learned counsel. Perused FIR and charge-sheet.

7. At the time of the incident the victim was 17 years old. In initial statement victim has stated about sexual assault on her by Accused No.1 and 2. Thereafter, after two months in supplementary statement she has stated that, Applicant had committed sexual assault on her. There is two months delay to file complaint against the Applicant. The Applicant is behind bar for almost three years. Investigation is completed and charge-sheet has been filed. In view of the above, I pass following order.

ORDER

(i) The Applicant be released on bail in Crime No.01 of 2021 registered with Bhoiwada Police Station, Thane, 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 Bhoiwada Police Station, Thane 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) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) The Trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by the observations made in this order.

(v) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)

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