

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

BAIL APPLICATION NO. 2837 OF 2022

Balakram Manraj Prajapati ..Applicant
VS.
The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION NO. 55 OF 2023**

Punnvasi Motilal Prajapati ..Applicant
VS.
The State of Maharashtra and Anr. ..Respondents

Adv. K.A.J. Merchant a/w Adv. N.M. Nadar for the Applicant.

Ms. Sonali G. Kulkarni for the Complainant.

Ms. A. A. Takalkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 27, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail by the applicant-Balakram Manraj Prajapati in connection with C.R. No.425 of 2021 dated 18/11/2021, registered with Kalwa Police Station, under sections 376(1), 376(2)(f), 323, 506(2) and 114 of the Indian Penal Code, 1860 and sections 4, 6, 8, 10 and 17 of the Protection of Children from Sexual Offences

Act, 2012.

3. The victim was around 16 years of age when the First Information Report (FIR) was filed. The FIR was lodged on 18/11/2021. In the detailed FIR, the victim narrates that her uncle i.e. accused no. 1 and another accused related to her, subjected her to sexual assault which is an offence punishable under the aforesaid sections. Her aunt who is the accused no. 3 is the abettor. In the FIR, the applicant who is the accused no. 4 is not named. A supplementary statement of the victim came to be recorded on 25/11/2021. In the said supplementary statement, she names the present applicant.

4. The applicant was taken to a Doctor when it was revealed that she was pregnant. In the supplementary statement, the victim states that the applicant promised to marry her and on that count had forcible physical relations with her.

5. A statement of the victim under section 164 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) came to be recorded on 14/12/2021. In this statement, the victim stated that it is accused nos. 1 and 2 who committed the

sexual act and atrocities on her. In the statement, the victim states that after of the physical assault by the accused nos. 1,2 and 3, she was thrown out of the house. She took shelter with the applicant. The applicant promised to marry her once she turned 18 years of age. The applicant had taken her to the Doctor and thereafter this FIR came to be registered.

6. It is thus seen from the FIR that the victim has not named the applicant and even in the statement under section 164 of the Cr.P.C. the applicant is not named as the perpetrator. The accusations in these statements are against accused nos. 1,2 and 3. The investigation is complete and the charge-sheet has been filed. The applicant has been in custody since 25/11/2021 for a period of almost 1 year and 3 months. Even the charge is not framed. There is no possibility of the trial concluding any time soon. There are no criminal antecedents reported against the applicant. The applicant can be released on bail. Hence, the following order.

ORDER

(a) Applicant- Balakram Manraj Prajapati in

connection with C.R. No.425 of 2021, registered with Kalwa Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount;

(b) The applicant is permitted to furnish temporary cash bail surety in the sum of Rs.15,000/- for a period of 6 weeks in lieu of surety;

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence;

(d) The applicant shall report to the concerned police station once in two months i.e. on first Saturday of every alternate month between 11.00 a.m. and 1.00 p.m, commencing March-2023;

(e) The applicant shall not enter the jurisdiction of the police station where the victim is residing;

(f) The applicant shall not try to establish any contact with the victim;

(g) The applicant shall attend the trial regularly;

(h) On being released on bail, the applicant

shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

7. I appreciate the able assistance rendered by Advocate Sonali G. Kulkarni who appeared on behalf of the victim. I had requested her to assist this Court on behalf of the victim, as none appeared for the victim though the victim was duly served.

8. Applications stand disposed of accordingly.

(M. S. KARNIK, J.)