

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 2843 OF 2022**

Kiran Ashok Gangawane

.... Applicant

Versus

The State of Maharashtra and Anr.

.... Respondents

.....

Mr. Aniket C. Pardeshi a/w. Sana R. Khan, Advocate for the Applicant.

Mr. A. A. Palkar, APP for Respondent-State.

Mr. Abhishek Avchat a/w. H.S.Shinde, Advocate for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.**DATE : 18th OCTOBER, 2023.****P.C. :**

1. By this Application, Applicant is seeking bail in C.R.No. 483 of 2022 registered with Pant Nagar Police Station, Mumbai for the offences punishable under Sections 376, 376(n), 506 of Indian Penal Code, 1860 (for short "IPC") and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").

2. It is the prosecution's case that mother of victim had lodged complaint against Suraj Gamare stating that he had forcefully sexually assaulted her daughter/victim. On that basis offence was registered against Suraj. In the statement given to police victim has stated that one day friend of Suraj i.e. Applicant came to her house and told her that he came to know about the relationship between the victim and Suraj and

sexually assaulted her and he also threatened her. The victim had informed the said fact to Suraj.

3. It is the contention of learned Counsel for the Applicant that there is delay in lodging the FIR against the Applicant. No date is mentioned in the complaint when Applicant sexually assaulted the victim. The main complaint was lodged against Suraj. The main allegations are against accused Suraj. Applicant has been falsely implicated in this case. Hence, requested to allow the application.

4. It is the contention of learned Counsel for Respondent No.2 that at the time of incident victim was below 15 years of age. The victim has stated about the sexual act done by the Applicant. There is *prima facie* case against the Applicant. Hence, requested to reject the application.

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

6. I have heard all learned Counsel. Perused the FIR and charge-sheet. It appears from the record that as per the complaint of victim's mother dated 03.06.2022 FIR was lodged against Suraj accused in Crime No. 475 of 2022. In the said FIR there is no mention of the name of Applicant. Thereafter statement of victim was recorded on 04.06.2022. In the said statement she has referred about the sexual assault done by Applicant. In the statement of victim no date or day is mentioned when

sexual assault was committed by the Applicant. There is delay in lodging the FIR against the Applicant. Applicant is behind bar more than one year and four months, yet trial has not been started. Investigation is completed and charge-sheet has been filed. It may take time to conclude the trial.

7. Considering the above facts, Applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 483 of 2022 registered with Pant Nagar Police Station, Mumbai, on executing P.R.Bond in the sum of Rs.25,000/- 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.

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2023.10.21
15:04:26 +0530

(SHIVKUMAR DIGE, J.)