

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4438 OF 2021

Tulsiram Ramavtar Gupta

.... Applicant

Versus

The State of Maharashtra and anr.

.... Respondents

Mr. Ashok Kumar Dubey along with Mr. Anil Pandey i/b. SAVJ Law Solutions, Advocates for the Applicant.

Ms. Pallavi N. Dabholkar, APP for Respondent-State.

Mr. Mayur G. Sanap, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.I-165 of 2021 registered with Padgha Police Station, Thane, for offences punishable under Sections 363, 366, 368 and 376(D) of Indian Penal Code, 1860 (for short "IPC") along with Sections 4, 8 and 12 of Protection of Children from Sexual Offence Act, 2012 (for short "POCSO").

2. It is prosecution's case that first informant had lodged complaint on 6th April 2021 stating that victim had eloped with accused No.1-Gyanu Gupta. Hence offence was registered against

Gyanu Gupta. In investigation, police arrested Gyanu Gupta and the present applicant. The allegations against the applicant are that when the victim was staying in the house of applicant with Gyanu Gupta, one day applicant forcefully sexually assaulted her.

3. It is the contention of learned counsel for applicant that applicant has been falsely implicated in this case. The entire case of prosecution is based on conjectures and surmises. No purpose would be served by keeping the applicant behind the bar. In investigation, police did not produce any incriminating material against the applicant. Hence, requested to allow the application.

4. It is the contention of learned APP that at the time of incident, the victim was 13 year old. Applicant forcefully sexually assaulted her when she was staying in his house along with accused No.1. Victim, in her statement, has categorically stated about the sexual assault made by applicant. There is prima facie case against the applicant. Hence, requested to reject the application.

5. Learned counsel for respondent No.2 reiterated the submissions of learned APP.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

In statement under Section 164 of Cr.PC, victim has stated that she was residing in the house of applicant. When accused No.1 had gone for work around 1.00 pm, applicant forcefully sexually assaulted her. When she informed about this incident to accused No.1, then applicant asked them to leave his house. At the time of incident, victim was 13 year old. Victim has no reason to implicate the applicant in false case. There is prima facie case against the applicant.

6. Considering the above facts, I pass following order :

ORDER

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)