



Diksha Rane

931.2. BA 3095-23.doc

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

BAIL APPLICATION NO.3095/2023

PRAMOD JOGINDAR SAHU ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR.
..RESPONDENTS

**WITH
BAIL APPLICATION NO.2290/2023**

GOURISHANKAR JOGINDER SAHU ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. S. K. Kamble a/w. Adv. Manisha Jadhav a/w. Adv.
Harshada Waingankar for the applicant in BA/3095/2023.
Adv. Jyoti Ghorpade for the applicant in BA/2290/2023.
Mr. P. H. Gaikwad, APP for the State.
Adv. R. A. Naik for the respondent no.2 in both applications.
API Sopan Patil, Pelhar Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 20, 2023.

P.C. :

1. Heard learned counsel for the applicants, learned APP
for the State and learned counsel for the respondent no.2-
informant.

2. This is an application for bail in respect of the offence punishable under Sections 376, 376-D, 376(2)(n), 376(3), 354, 323, 504, 506, 509 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 27/11/2022 vide C.R. No.1001/2022 with Pelhar Police Station, District Palghar.

3. The age of the informant at the relevant time was 15 years and 10 months. The informant is the daughter of the present applicant Pramod Sahu. The applicant Gourishankar Sahu is the uncle of the informant. The incident alleged is of sometime in November, 2021 when according to the informant the applicants committed the acts which constitutes the offence under the aforesaid sections. The First Information Report (FIR) was registered on 21/11/2022 almost one year after the incident.

4. On the very same day i.e. on 21/11/2022 a supplementary statement of the victim came to be recorded wherein the victim narrated altogether a different version.

It is stated that she was having a love affair with a boy. It is then stated by the victim that the boy was from a different community. The said fact was not liked by her father and uncle, who assaulted her. The victim then stated that as she was angry with her father and uncle for coming in the way of her affair with the boy, she lodged the false complaint against the applicants. Then again in supplementary statement dated 27/11/2022 the informant stated that the applicants never had any physical relations with the informant. The victim then stated that sometime in November 2021 and prior to November 2021, her father had touched her inappropriately. In such supplementary statement, it is stated that the applicant Gourishankar (her uncle) had assaulted her. In order to teach the applicants a lesson, the informant filed the complaint against them. The statement under Section 164 was recorded on 5/12/2022 where she stated that the applicant Pramod, her father had inappropriately touched her. From the record it appears that there are disputes between the applicant Pramod and his second wife.

5. The application was opposed by learned APP and learned counsel for the respondent no.2-informant. Learned counsel for the respondent no.2-informant submitted that the application should be rejected. He submits that if this Court is inclined to enlarge the applicant on bail, some conditions may be imposed on the applicants as there is a possibility of the applicants threatening the victim cannot be ruled out.

6. Learned counsel for the respondent no.2 submitted that there are some criminal antecedents reported against the applicants. However, having regard to the facts of the present case, the criminal antecedents will not come in the way of the applicants' release on bail.

7. The applicants are in custody for almost one year with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. The applicants do not appear to be a flight risk. There is a delay in registering the FIR.

8. From the statement under Section 164 of the Cr.P.C., prima facie, it appears that the accusations against the

applicant Pramod is that he inappropriately touched her. The accusations against applicant Gourishankar is of threats and assault. There is complete variance in the statement under Section 161 of the Cr.P.C., supplementary statements and the one recorded under Section 164 of the Cr.P.C. These are observations limited for considering the application for bail. The trial Court not to be influenced by any observations made by me. In the facts and circumstances of the present case, the applicants can be enlarged on bail considering the nature of the accusations. Hence, the following order :-

ORDER

- (a) The applications are allowed.
- (b) The applicants- (1) Pramod Jogindar Sahu and (2) Gourishankar Joginder in connection with C.R. No.1001/2022 registered with Pelhar Police Station, District Palghar, shall be released on bail on their furnishing P.R. Bonds of Rs.25,000/- each with one or more sureties each in the like amount.
- (c) The applicants are permitted to furnish cash bail sureties in the sum of Rs. 25,000/- each for a period of 6 weeks in lieu of sureties.

(d) The applicants shall attend the Investigating Officer of Pelhar Police Station, District Palghar, once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m.

(e) The applicants 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 applicants shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

(g) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicants shall not enter the Mumbai/Mumbai Suburban District and Palghar District after being released on bail, till the trial concludes.

(h) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicants shall surrender their passport, if any, to

Diksha Rane

931.2. BA 3095-23.doc

the investigating officer.

9. The applications are disposed of.

(M. S. KARNIK, J.)