IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1619 OF 2024

Sanjay Baliram Lokare ...Applicants

Vs.

The State of Maharashtra and Others ...Respondents

Mr. Ishan Jani with Sandeep M. Patil, Advocate for Applicant.
Mrs. S. M. Yadav, APP for State-Respondent.
Mr. Meghdeep Oak, Appointed for Respondent No. 2.

CORAM:- ANIL S. KILOR, J.

DATED:- 10th JULY, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No. 275 of 2023 registered with Shahuvadi Police Station, Dist. Kolhapur, for the offences punishable under Sections 377 and 506 of the Indian Penal Code, 1860 (for short, 'IPC'), Sections 4, 5(f), 6 ,8 and 12 of Protection of Children From Sexual Offences Act, 2012, Sections 3(1)(w)(i)(ii), 3(5) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3) Against the applicant the only allegation is that he committed unnatural sex with the victim-boy.

4) Having gone through the charge-sheet and the material collected by the Investigating Officer, it is evident that prima facie the material evidence does not support the case of the prosecution.

5) The learned Counsel for the respondent No. 2 points out that as the complaint was made after nine days and because of the time gap between the incident and the medical examination conducted that might be the reason for not finding any marks or any evidence of unnatural sex on the body of the victim.

6) However, at the same time, respondent No. 2 points out that after three days, the mother alleged to have taken a victim to the private doctor, who found redness on the anus of the victim. It has come in the statement of the doctor that he advised the mother of the victim to take him to the Government Hospital and lodged a complaint. However, despite the same, the complaint was after 9 days lodged on 6th September, 2023. As far as the two eye-witnesses, namely Kartik Lavhate and Mahipati Punugade are concerned they only state that on the night of 26th August, 2023, they slept with the applicant and the victim in the same room.

7) However, there is no mention of any such alleged incident in their statement. In the circumstances, considering the nature of the evidence collected by the Investigating Officer during the investigation and the period of incarceration of the applicant coupled with the fact that further custody of the applicant is not necessary, I am of the opinion that though the learned Counsel for the respondent No. 2 and the learned APP are opposing the bail, the application needs to be allowed. Hence, I pass the following order.

ORDER

i. Criminal Bail Application No.3674 of 2023 is allowed;

ii. It is directed that the Applicant shall be released on bail in Crime No. 275 of 2023 registered with Shahuvadi Police Station, Dist. Kolhapur, for the offences punishable under Sections 377 and 506 of the Indian Penal Code, 1860 (for short, 'IPC'), Sections 4, 5(f), 6 ,8 and 12 of Protection of Children From Sexual Offences Act, 2012, Sections 3(1)(w)(i)(ii), 3(5) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing P.R. Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;

iii. The Applicant shall attend the Police Station on every 1st and 16th day of month between 11:00 am to 12:00 noon till conclusion of trial;

iv. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

v. Liberty is granted to the State for cancellation of bail if the Applicant commits similar offence;

vi. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason;

vii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]