

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

CRIMINAL BAIL APPLICATION NO. 879 OF 2024

Ganesh @ Ganya Hanamanta Asawale ...Applicant

Vs.

The State of Maharashtra and Others ...Respondents

Mr. Rohan Hogle, Advocate for Applicant.

Mrs. Priyanka Rane, APP for State-Respondent.

None for Respondent No. 2.

Mr. Pradipsing Sisode, API, Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 18th NOVEMBER, 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. 866 of 2022 registered with Khed Police Station, Pune for the offences punishable under Sections 376(A)(B), 376(D)(B) and 354(A)(3) of the Indian Penal Code, 1860 and Sections 4, 6 and 8 of the Protection of Children From Sexual Offences Act, 2012 and Section 67 of the Information Technology Act, 2000.
- 3) The learned Counsel for the applicant submits that no identification parade was conducted and only on the basis that, both the

victims have stated the name of one of the accused as 'Ganya' and since the name of the applicant is Ganesh, police have implicated the applicant in the alleged offence. It is further argued that the mother of the victims was in love with one Ravi, who is the co-accused and the whole village was against their relations, therefore, the girls have falsely implicated the villagers in the alleged offence. He further argued that the statement of Satish Kisan Mohan and the attendance Register of the school show that, both the victim girls left the village one year before, the complaint. Hence, the allegations are false.

4) On the contrary, the learned APP while opposing the application pointed out the incriminating material and prayed for rejection of the present application.

5) Having gone through the charge-sheet and the relevant material collected by the Investigating Officer during the investigation, it is evident that the offence was registered on a statement of victim Diksha Deepak Waghmare. It is further evident that one Chaya Arun Mutha, Probation Officer of Children Home, stated in her statement that when the police brought both the girls in the children's home, they were in trauma. However, after medical treatment and taking them into confidence, she got to know the alleged fact of sexual assault committed by the accused on both the girls.

6) The Statement of Probation Officer shows that the girls were in her custody for a long period and in between neither their parents or anybody else met them. Thus, there is no possibility of tutoring.

7) The contention of the applicant that the accused have been falsely implicated as they were against the love affair of the mother of the victims with one Ravi, who is a co-accused, cannot be accepted for the reason that Ravi is also implicated as an accused along with the father of

the victims. On the date of lodging of the report, the informant was 10 years old whereas her sister was 7 years old. Moreover, both the victims have identified the applicant on showing them the photo of the applicant.

8) Thus, considering the seriousness of the offence and the material available on record, prima facie the complicity of the applicant is apparent. Accordingly, I do not find the present case as a fit case for grant bail.

9) Furthermore, the submission of the learned Counsel for the applicant that the statement of grandmother was not recorded and in a statement of one of the victims under Section 164 of the Code of Criminal Procedure, 1973, name of the applicant does not appear, will not help the applicant in view of the report of the Probation Officer.

10) In these circumstances, the application is rejected and disposed of.

[ANIL S. KILOR, J.]