

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

CRIMINAL BAIL APPLICATION NO. 2801 OF 2024

Samya @ Samadhan Daji Sule ...Applicant

Versus

The State of Maharashtra And Anr. ...Respondents

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Ms Pushpa Ganediwala a/w Mr. Prakash Pujari, Advocate for the Applicant.

Ms. Deepali Bagla, Advocate for Respondent No.2.

Mr. V.A. Kulkarni, A.P.P. for the Respondent No.1 – State.

Mr. Sanjay Chavan, (PSI) Virar Police Station, present.

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CORAM : N. R. BORKAR, J.
DATE : 30th JANUARY, 2025.

P.C.:

1. This is an application for regular bail.
2. The applicant came to be arrested in Crime No. 358 of 2019 registered at Virar Police Station, District: Palghar, for the offences punishable under Sections 376(D), 323, 506 of the Indian Penal Code, Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(W)

(1)(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. According to the prosecution, on the date of incident which took place on 15.04.2019 at about 8.00 p.m. the present applicant and co-accused accosted the victim and her friend, who is witness in the present crime while they were near Bhaskar Waman Thakur School at Virar. It is alleged that they took them to isolated place behind the school. It is alleged that with the help of a rope they tied the friend of the victim to one mango tree and thereafter committed forcible sexual intercourse with the victim.

4. I have heard the learned counsel for the applicant, learned A.P.P. for the Respondent No.1-State and learned Advocate for Respondent No.2.

5. The learned counsel for the applicant submits that in spot Panchanama there is no reference of the Mango tree. It is submitted that the medical evidence is also not consistent with the version of the victim. It is submitted that the statement of the victim and her friend are not consistent. It is submitted

that the history narrated by the victim at the time of her medical examination would show that the victim had physical relations with her friend just one day prior to the incident. It is submitted that the applicant is in jail for about six years and the trial has not commenced. It is submitted that considering the overall facts and circumstances, the applicant be released on bail.

6. On the other hand, learned A.P.P for the Respondent-State submits that the applicant is involved in serious offence of gang rape. It is submitted that on the date of alleged incident the victim was hardly 15 years old. It is submitted that the applicant and the co-accused were not known to the victim, therefore there arises no question of their false implication or to doubt the version of the victim. It is submitted that the friend of victim has identified the applicant and co-accused in Test Identification Parade. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. I have perused the statement of the victim and her friend recorded under Section 164 of the Cr.PC. I do not see

any reason to doubt their version. The friend of victim has identified the applicant in Test Identification Parade. Considering the nature of offence, I am not inclined to release the applicant on bail. The Application is rejected. However, as the applicant is in jail for about six years, the trial Court shall make an endeavour to conclude the trial as expeditiously as possible.

(N. R. BORKAR, J.)