

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.711 OF 2022

Gokul s/o. Ashok Savant

..Applicant

Vs.

The State of Maharashtra
and anr.

..Respondents

Mr.S.J.Salunke, Advocate for applicant

Mr.N.T.Bhagat, APP for respondent no.1

Mr.A.L.Kanade, Advocate for respondent no.2

CORAM : R.G. AVACHAT, J.

DATE : JULY 29, 2022

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0020 of 2022 registered with Majalgaon Rural Police Station, Dist. Beed .

2. Heard learned counsel appearing for the parties.

3. The FIR has been lodged by the victim herself on 25.01.2022. On the day of lodging of the FIR, the informant (victim) claimed to be 18 years of age. It has been alleged in the FIR that the she was a student of Moreshwar Junior College. She was in 12th standard. Two years therebefore she was in 10th standard in

Ravindranath Tagore School at village Kharat Adgaon. The applicant was also a student of that school. He was ahead of her by two years. It is her case that once she had been to bathroom to ease herself (for urinal). The applicant clandestinely took video shooting thereof and thereafter, started blackmailing her. The applicant, initially, asked her to pay money. Accordingly, she paid the applicant money many a time from the grocery shop of her father. Thereafter, the applicant started asking for sexual favour.

4. In the FIR, the victim did not attribute the applicant with any sexual assault. In the supplementary statement recorded on 26.01.2022, she stated that on 23.01.2022, she consumed kerosene. She was admitted to Deshpande Hospital, at Majalgaon. She did not give details in the FIR of the way the applicant behaved with her. In her supplementary statement, the victim stated that when she was in 8th standard, the applicant was in 10th standard in the very school. The applicant used to follow her. The video which he shot was shown to her by him. He then started blackmailing her to pay him money many a time. He then insisted her for sexual favour. The victim had no option but to submit to his demand. That time, she was below 18 years of age. The applicant would visit her

residence in absence of her family members. He then had sexual intercourse with her. He had also sexual intercourse with her in the field. The applicant had also snapped nude photographs of the victim. He threatened her to make them viral, if she refused to his demands. It has also been alleged that the applicant's wife, his mother and brother had came to the victim's house and beat her up. She, therefore, consumed kerosene.

5. Learned counsel for the applicant would submit that no provisions of the Information Technology Act have been invoked against the applicant. The supplementary statement indicates the applicant and the victim to have been friendly with each other. The medical examination report does not indicate recent sexual assault. The FIR has been lodged long after the alleged incidents. Had the allegations been true, the Investigating Officer could have made investigation to find, what the cellphone the applicant made use of. He could have retrieved the video shooting or the photographs, which were allegedly snapped by the applicant in the cellphone. No such exercise has been done by the Investigating Officer . He, therefore, urged for grant of bail.

6. Learned APP and learned counsel representing the victim would, on the other hand, submit that the allegations are serious one. The applicant is married and blessed with a child. The applicant has blackmailed the victim and exploited her sexually. If he is granted bail, he would again be after the victim. Learned counsel for the victim drew attention of this Court to the medical report of the victim and ultimately, urged for rejection of the application.

7. Considered the submissions advanced. Perused the FIR, the supplementary statement of the victim and related papers. Both applicant and victim hails from one and the same village. Both of them were students of one and the same school. The victim was in 8th standard and the applicant was in 10th standard. It is alleged that the applicant had once shot video of the victim while she was easing herself in the in the school bathroom and thereafter, continued to blackmail her with threat to make the same viral. It is also alleged that initially the victim had to pay him money and then to submit his sexual lust. It is informed that the Investigating Officer seized the cell phone of the applicant. There is nothing on record to indicate the Investigating Officer to have made efforts to retrieve the alleged video shooting or photographs stored in the

cellphone (memory card) of the applicant. He even could have retrieved the same from the concerned cellphone company. It appears that no efforts have been made in this regard.

8. Reading between the lines in the supplementary statement of the victim indicates that both applicant and victim were in relationship for little over two years. During such relationship, sexual intercourse/s are alleged to have taken place. The FIR dated 25.01.2022 and the supplementary statement dated 26.01.2022 are silent to state as to when, last such incident did take place. As such, there is reason to believe that the FIR has been lodged very belatedly after the alleged incident/s. The medical examination report, though indicate hymenal tear, the same does not suggest of recent age. As such, the medical examination report does not *prima facie* support the prosecution.

9. The applicant is behind the bars for six months. It will take time for commencement and conclusion of the trial. The facts and circumstances of the case lead this Court to grant him bail, provided he shall not enter Taluka Majalgaon, until conclusion of trial, except for attending this case.

10. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0020 of 2022 registered with Majalgaon Rural Police Station, Dist. Beed, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

(iv) The applicant shall not enter Taluka Majalgaon, Dist. Beed, until conclusion of the trial, except for attending the case.

[R.G. AVACHAT, J.]

KBP