

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

BAIL APPLICATION NO.1991 OF 2015

Datta Bajirao Chavan

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Priyal G. Sarda for the Applicant.

Ms G.P. Mulekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 8th DECEMBER, 2015.

P. C. :

This is an application for bail filed by the Applicant, who is facing trial in Special Case No.145 of 2015 pending on the file of the Additional Sessions Judge, Pune. The said cases arises from C.R. No.54 of 2015 registered at Vadgaon Maval Police Station, Pune, for the offences punishable under sections 363, 366 A, 376 of the IPC and section 4 of the Protection of Children from Sexual Offences Act, 2012.

2. The learned counsel for the Applicant has submitted that the age of the victim is 17 years and material on record shows that the Applicant and the victim were known to each other and that she stayed

with the Applicant over a period of one year without any complaint. He has stated that the Applicant is 24 years old and considering this background the Applicant is entitled for bail.

2. The learned APP submits that the offence is of a serious nature and hence, the Applicant should not be granted bail.

3. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The material on record prima facie reveals that the brother of the victim had lodged the FIR dated 23.2.2015 stating that her sister had gone missing from 22.2.2015 at about 6.00 a.m. Upon enquiry he learnt that the Applicant had also not returned on his house since 21.2.2015. Hence, he suspected that the Applicant had kidnapped his minor sister. He therefore, filed FIR against the Applicant for kidnapping his sister. Based on the said FIR aforesaid crime came to be registered.

4. The records prima facie reveal that the victim and the Applicant were traced at Bihar. The statement of the victim prima facie reveals that she knew the Applicant and that she had physical relationship with the Applicant. The material on record further reveals

that she had accompanied the Applicant, stayed with the Applicant and she had physical relation with the Applicant. It is to be noted that the Applicant is a child within the meaning of section 2 (d) of the Protection of Children from the Sexual offences Act. The school leaving certificate shows that the victim was 17 years of age as of the date of the incident and on the verge of attaining the majority. The records prima facie reveal that the victim had stayed with the Applicant for over a period of a month. She had not complained to any person that she was kept by the Applicant against her wish. Though consent of the victim is not relevant, considering the age of Applicant i.e. 24 years and the conduct of the victim, this is a fit case for grant of bail.

5. Under the circumstances, the application is allowed of the following terms and conditions:-

(I) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties in the like amount to the satisfaction of Additional Sessions Judge, Pune.

(II) The Applicant shall furnish his permanent as

well as temporary address, if any, to the Investigating Officer. The Investigating Officer shall verify the said address before the Applicant is released on bail.

(III) The Applicant shall not interfere with the victim or any other witnesses.

(IV) The Applicant shall appear before the Sessions Court, Pune, on each and every date of hearing.

(ANUJA PRABHUDESSAI, J.)