

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

CRIMINAL APPLICATION NO. 6633 OF 2015

Rajendra s/o Govind Pathave,
Age : 21 years, Occu. Agril.,
R/o. Kalas Bk., Tal. Akole,
Dist. Ahmednagar.

... Applicant

VERSUS

The State of Maharashtra.

... Respondent

.....
Mr K.N. Shermale, Advocate for the applicant
Mr U. S. Mote, APP for respondent/State
.....

CORAM : **N. W. SAMBRE, J.**

DATE : **11TH JANUARY, 2016.**

PER COURT:

. By this application, the applicant herein is seeking regular bail in Crime No. I-100/2015 registered with Akole Police Station, Tq. Akole, Dist. Ahmednagar for the offences punishable under Sections 363, 366(A), 376(2)H, I of the Indian Penal Code and Sections 4, 5(L), 6 of the Protection of Children from Sexual Offences Act, 2012 (In short "POSCO Act").

2. The learned counsel for the applicant while trying to make out a case for grant of regular bail would urge that, the further detention of the applicant is not necessary in the matter as the investigation is complete and charge-sheet is already filed. According to him, the applicant, who is aged

about 21 years, is behind bars since last five months. He has invited my attention to the consent theory on the part of the victim, statement and the conduct of the victim recorded therein.

3. According to the applicant, the applicant is entitled for bail having regard to the age of the applicant on the date of commission of crime in question.

4. The application is strongly opposed by the learned APP on the ground that there is strong evidence available against the applicant. He has invited my attention to the date of birth of the victim so as to justify invoking of the provisions of the POSCO Act. According to him, the statement of the victim recorded under Section 164 supports the case of prosecution.

5. It is claimed that the applicant has committed an offence punishable under Section 376(2)H, I of the Indian Penal Code, however there is no investigation on the same. However from the record it depicts that, the victim was a minor girl below 18 years on the date of commission of crime.

6. The investigation in the matter is already complete and the charge-sheet is also filed, as such, the further custodial interrogation of the applicant is not necessary.

7. Though Statement u/s 164 of Cr.P.C. seems to be contrary to the statement of the victim recorded earlier, however the same can be looked into at the stage of evidence.

8. In this background, particularly looking to the age of the applicant and the consent theory as mentioned in the investigation, it will be appropriate, in my opinion, to order release of the applicant on bail. Hence, I proceed to pass the following order.

ORDER

- (i) The applicant Rajendra s/o Govind Pathave be released on bail in Crime No. I-100/2015 registered with Akole Police Station, Tq. Akole, Dist. Ahmednagar for the offences punishable under Sections 363, 366(A), 376(2)H, I of the Indian Penal Code and Sections 4, 5(L), 6 of the Protection of Children from Sexual Offences Act, 2012, on his furnishing PR bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.
- (ii) The applicant shall keep himself away from the village Kalas Bk., Tq. Akole, till conclusion of the trial.

[N. W. SAMBRE]
JUDGE