

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 2044 OF 2018**

Mahesh @ Pankaj Mahadev Kute

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Suyaj Gangal for the Applicant.

Smt. J.S. Lohokare APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE :29th NOVEMBER, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 2 of 2018 dated 17th January, 2018 registered with Mhasala Police Station, District Raigad under Sections 363, 376 (2)(j) (n) of the Indian Penal Code and under Sections 3 r/w 4 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act), now culminated into Special (POCSO) Case No.12 of 2018.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge-sheet.

3 The prosecutrix was aged about 16 years and 8 months on the date of lodgment of the crime and therefore, with a view to

protect her identity and in consonance with the provisions of Section 228(A) of the Indian Penal Code and Section 33(7) of the POCSO Act, the detailed narration of the facts mentioned in the first information report and in the statement of the victim girl is hereby avoided.

4 During the course of investigation the Applicant came to be arrested on 25th January 2018 and after completion of investigation, the police have submitted charge sheet.

5 The statement of the prosecutrix indicates that, on 17th January 2018, she at her own free will accompanied the Applicant from the village Kumbhle, Taluka Mhasala, District Raigad to various places in Maharashtra and they travelled to Solapur and Osmanabad from Alibag by State Transport Bus. It appears that, the Applicant and the prosecutrix also visited the religious places like Akkalkot and Tulzapur.

It is alleged that, when the Applicant and the prosecutrix had been to Tulzapur, the Applicant committed forcible sexual intercourse with the prosecutrix. The record of investigation indicates that, the prosecutrix had attained an age of understanding and discrimination on 17th January 2018, when she accompanied the Applicant to go to the aforesaid places. That, from 17th January 2018,

to 24th January 2018, the prosecutrix was in the company of the Applicant and she did not make any grievance about the Applicant to anybody in the entire journey. That, the prosecutrix along with the Applicant returned to their village Kumbhle on 24th January, 2018 as per the directions of the uncle of the Applicant.

6 As noted earlier, the Applicant is in jail since 25th January 2018 and the investigation of the present crime is already completed. It is submitted that, there are no antecedents at the discredit of the Applicant. No fruitful purpose will be served by further keeping the Applicant in incarceration. The Applicant can therefore, be released on bail.

Hence the following order:-

- a) The Applicant be released on bail in CR No. 2 of 2018 dated 17th January, 2018 registered with Mhasala Police Station, District Raigad on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend the concerned Police Station on every first

Monday of the month between 11.00 a.m. and
2.00 p.m.

- c) The Applicant shall not tamper with the evidence
and/or pressurize the prosecution witnesses.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)