

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

BAIL APPLICATION NO.1099 OF 2019

Samadhan @ Dattatray Tanaji Gaikwad Applicant

versus

The State of Maharashtra Respondent

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- Mr. Umesh R. Mankapure, Advocate for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.

CORAM:	SARANG V. KOTWAL, J.
DATE :	10th OCTOBER, 2019

P. C. :-

The applicant is seeking his release on bail in connection with C.R. No.746/2018 registered at Sangola Police Station, Solapur Gramin on 6/9/2018 under Sections 363 and 376 of IPC and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act. The applicant was arrested on 7/9/2018 and since then, he is in custody. The investigation is over and chargesheet is filed.

2. The FIR is lodged by the mother of the victim on 6/9/2018. She has stated in her FIR that her daughter aged 14 years was studying in school in 9th Standard. On 6/9/2019, she left their house for attending the school on 10.00 a.m. After some time, the school authorities telephonically informed the informant and family that informant's daughter had come to school and had left immediately. Therefore, informant went to the school but she was not found there. They searched for her with their relatives and her friends but she was not found. On further inquiry, she came to know that applicant was also missing. On further inquiry, it was revealed that applicant was trying to get friendly with the victim. Therefore, the informant was satisfied that the applicant had abducted her daughter. Then this, FIR was lodged. The investigation was carried out and the applicant was arrested.

3. The victim was traced and she was subjected to medical examination. The medical examination showed

that there was sexual intercourse.

4. The statement of the victim was recorded. She has stated in her statement that on 6/9/2019, she had gone to her school. When she reached at the gate of the school, applicant approached her and took her with him in a four wheeler. She was taken to Ashoka Hotel at Mahud. However, the Hotel Manager did not give any room. While they were returning to Vaki, applicant came to know that victim's family members were searching for her. Therefore, he took the victim to Dighanchi at his relative's place. There, the applicant established physical relations with the victim against her wish. Thereafter, she was taken to Atpadi. At that time, he received one phone call and therefore the applicant left her near her house.

5. Heard Mr. Mankapure, Ld. Counsel for the Applicant and Mr. Yadav, Ld. APP for the State/Respondent.

6. Mr. Mankapure submitted that there was love relationship between the victim and the applicant. He relied on certain letters which are annexed to the application which indicates that there could be love affair though those letters do not form part of chargesheet.

7. Ld. APP Shri. Yadav relied on chargesheet and statement of the victim.

8. I have considered these submission. The applicant is 24 years of age and the victim is hardly 14 years old. There is no question of considering their love relationship at this stage. The conduct of the applicant does not deserve any leniency. In spite of knowing that the family members of the victim was searching for her, he still took her away to his relative's place and established physical relations with the victim. Considering the stringent provisions of POCSO Act and Section 376 of IPC, considering the circumstances and conduct of the applicant, no case is made out to release the applicant on bail. Hence, the following order.

ORDER

- (i) The Application is rejected.
- (ii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)