

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

CRIMINAL BAIL APPLICATION NO.1291 OF 2019

Suvarna Narayan Bagal

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.R.V. Gupta, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- Mr.V.B. Ghodake, Pusegaon Police Station, Satara, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th JULY, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.176/18 registered with Pusegaon Police Station, Satara, under sections 363, 366, 376(3) r/w 34 of the Indian Penal Code and section 3, 4 and 16 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The prosecution case is that the father of the victim had lodged FIR on 01/12/2018 that his daughter was missing

from 29/11/2018. The victim had left their house on the pretext of going to school and thereafter she had not returned. The complaint was lodged about her missing on the suspicion that somebody had kidnapped her. Subsequently, the victim was found and supplementary statement of the first informant was recorded. His supplementary statement as well as the statement of the victim herself recorded on 04/12/2018, mentions that the Applicant's son Navnath Narayan Bagal was a distant relative of the victim. They were knowing each other and the Applicant's son used to meet the victim on her way to school. Slowly love relationship developed between them. On 29/11/2018 the victim left her house. She met the Applicant's son near Bhairavnath Temple. It is the case of the victim that the Applicant's son forced her to sit in the car. Thereafter they went towards Pusegaon and she was brought to Koregaon. Thereafter they went to Satara by S.T. Bus. The Applicant had a room at Shirwal. It is the case of victim that the Applicant thereafter took the couple to a temple where the couple exchanged garlands and the victim was told that they were married. Thereafter they

resided in the Applicant's room for four days and then they went to the house of one Vinod Dighe, at Dhangarwadi. On 04/12/2018 the victim's uncle and the present Applicant alongwith the police came to that place and rescued the victim.

3. Heard learned Counsel Mr.R.V. Gupta for the Applicant and learned APP Mr.S.H. Yadav for the State.
4. Mr.Gupta submitted that the victim girl allegedly was 14 years and 9 months of age, but she had developed love affair with the Applicant's son. The Applicant could not be held responsible for the same. The allegations against the Applicants are that she helped her son in commission of offence knowingly. The Applicant was knowing that the victim was minor and that her son had not attained the permissible age of marriage. However, it cannot be said that the Applicant had committed any offence. The allegations do not appear to be true against the present Applicant.

5. Mr.Yadav, Learned APP submitted that the offence is serious and the Applicant knowingly helped her son and had facilitated the commission of offence, which amounts to offence under POCSO and u/s 376(3) of IPC.

6. I have considered the submissions advanced by both the parties. Though it is clear that there are allegations of offence under POCSO as well as 376 of IPC, the victim herself has admitted that she was having love affair with the Applicant's son. Therefore at least to that extent no force was involved in the offence. The Applicant had taken the couple to a temple where they had got married. There is one witness Vidya Sapkal who had attended that marriage. It shows that the Applicant had taken steps in front of a witness to get them married. The validity of that marriage is not an issue in the criminal investigation. However, it only shows that the act of the Applicant. The main offence is committed by the Applicant's son. Hence the Applicant cannot be kept in custody for a prolonged period till the conclusion of the trial. Moreover she is a lady and

she is not directly involved in the offence. In this view of the matter, the Applicant has made out a case for her release on bail. Hence, the following order :

ORDER

- (i) The Applicant is directed to be released on bail in connection with C.R.No.176/18 registered with Pusegaon Police Station, Satara, on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)