

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

CRIMINAL BAIL APPLICATION NO.1689 OF 2019

Bhagyawan Shantaram Dangale Applicant

versus

The State of Maharashtra Respondent

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- Mr. Priyal G. Sarda, Advocate for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 7th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.08/2019 registered with Chakan Police Station, Pimpri Chinchwad, under Sections 376, 323, 506 and 507 of IPC and under Section 4 of the Protection of Children from Sexual Offences (POCSO) Act.

2. The FIR is lodged by victim herself on 31/12/2018. She has stated that she was working with Dream Plastic Company.

At the time of lodging of the FIR, she was 17 years of age. She was acquainted with the applicant in the company where she was working. The applicant promised to secure a better job for her. On one occasion, the applicant took her to village Waki. It is her case that he offered her water. After drinking that water, she lost her consciousness. It is her case that when she was unconscious, the present applicant had snapped her photographs and thereafter, left her to her house. She has further mentioned that thereafter, the applicant consistently kept her under pressure. He was telling her that he would publish her photographs. It is her case that on such threats, the applicant took her to a hill and a lodge. She has mentioned the incidents dated 4/12/2018 and 9/12/2018 on a hill. It is her case that on 30/12/2018, he called her and asked her to meet him and to have physical relations with his friends. At that time, she said that she loved him and she will not involve in such activities. It is her case that the applicant called her but the call was received by her sister. That time, the applicant abused her sister. Thereafter, with consultation of her family members, prosecutrix lodged her FIR. Based on these allegations, FIR was

lodged and the investigation was carried out. The applicant was arrested on 1/1/2019 and since then, he is in custody. The investigation is over and the chargesheet is filed.

3. Heard Mr. Priyal Sarda, Ld. Counsel for the Applicant and Mr. S. H. Yadav, Ld. APP for the State.

4. Ld. Counsel for the applicant submitted that bare reading of the FIR shows that their relationship was consensual and though she claims to be under 18 years of age, she had attained the age of discretion. She is a willing party and therefore, applicant should not be denied bail. He submitted that only after her sister came to know about her relationship, the FIR came to be lodged.

5. As against these submission, Ld. APP submitted that the FIR clearly makes out a case against the present applicant. The applicant had committed these acts under threats of publishing those photographs which he had taken by making the informant

unconscious.

6. I have considered these submission. Apart from the FIR, there is a statement recorded by medical officer when the prosecutrix had undergone medical examination during investigation. At that time, she had mentioned that she was in love relationship with the present applicant since October 2017. She was taken to one hotel at Waki where they had sexual intercourse. The said statement also shows instances of other such sexual intercourses between them.

7. The FIR itself mentions that the informant was in love relationship with the present applicant since October 2017. She has restricted her allegations to incident in the year 2018. In the FIR, she has mentioned that they had gone to a hill on two occasions when they had their sexual intercourse. During course of investigation, the police have recorded statement of a lodge owner where the couple had rented a room on 19/12/2018. Even at that time, there was no resistance offered by the prosecutrix.

Thus, considering all these aspects, it is clear that the prosecutrix had consensual love relationship with the present applicant and she was a willing party to the incident mentioned in the FIR. Therefore, there was no force involved in the offence. Though, technically as per FIR she was below 18 years of age, the Trial Court will decide the involvement of the applicant and possible sentence against the present applicant. Today, I am only considering the prayer of release of applicant on bail during the pendency of trial.

8. Considering that they were in love relationship and there was no force involved, at this stage, there is no point in keeping him in custody during the entire period of pendency of trial. Therefore, I am inclined to grant bail to the present applicant. Hence, the following order.

ORDER

1. The applicant is directed to be released on bail in connection with C.R. No.08/2019 registered with Chakan Police Station, Pimpri Chinchwad , on his

executing P.R. Bond in the sum of Rs.25,000/-
(Rs.Twenty Five Thousand Only) with one or two
sureties in the like amount.

2. The application is disposed of.

(SARANG V. KOTWAL, J.)