

Rane

1/6 BA-462-2020(sr.13)
4.9.2020

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 462 OF 2020

Munna Mohammad Miyan
Sayyad

....Applicant

V/s.

The State of MaharashtraRespondent

* * * *

Mr. Salman Anwar Khan i/by. Mr. Rehan
Khan, Advocate for the applicant.

Ms. Veera Shinde, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Friday, 4th September, 2020.

P.C . :

1. Heard learned Counsel for the
applicant and learned APP for State.

2. It is an application under Section 439 of the Criminal Procedure Code seeking bail in connection with Crime No.400/2018 dated 9.10.2009 registered with Narpoli Police Station, Bhiwandi for the offences punishable under Sections 363, 276(3), 506(2) of the Indian Penal Code and Sections 3, 4 and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short).

3. The applicant came to be arrested on 7.10.2018. Investigation in the case is over and the chargesheet has been framed. I have perused the chargesheet. At the outset, it may be stated that the victim survivor had never been to School and therefore panel of doctors, opined her age in October, 2018 was 17 to 18 years. In view of this, it is not

necessary to issue notice under Section 439(1A) of Criminal Procedure Code.

6. Victim's statement recorded under Section 164 of the Code suggests that she voluntarily accompanied the applicant to his native place at Uttar Pradesh and submitted to his physical desire. Thus, taking into consideration, the age of the applicant and her narration under Section 164 of the Criminal Procedure Code, it is to be presumed that on the date of the alleged incident, victim had mental capacity to know what she was doing. In this case, investigation is over and the final report has been filed. The trial may not commence in the near future. However, applicant's presence for trial can be secured by imposing conditions. The

application is allowed and hence the following order :

ORDER

(i) The applicant arrested in Crime No. 400 of 2018 registered with Narpoli Police Station, Bhiwandi, he shall be released on executing PR bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in like sum.

(ii) In view of outbreak of Covid-19 pandemic, applicant is permitted to furnish cash bail and same shall remain in force for a period of three months.

(iii) It is made clear that, before expiry of three months,

applicant shall furnish sureties
as directed hereinabove.

(iv) The applicant shall
report on first Monday of each
month commencing from October,
2020 between 11:00 to 1:00 p.m.
till the charge is framed.

(v) The applicant shall
furnish particulars of his
permanent residential address and
contact details to the
Investigating Officer within seven
days from his release from jail.

(vi) The applicant shall not
tamper with the evidence or attempt
to influence or contact the
complainant, witnesses or any
person concerned with the case.

7. The application is accordingly allowed and disposed of.

8. It is made clear that observations made hereinabove be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)

Neeta
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Sawant

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Neeta S.
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