

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

CRIMINAL BAIL APPLICATION NO. 983 OF 2020

Chirag Baliram Chorge

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Ms. Sandhya Nanavare for Applicant.

Mr. Amit A. Palkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 03rd DECEMBER, 2020

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.622 of 2019 registered with Dahisar Police Station, on 30/12/2019, under sections 376, 376(2)(n) of the Indian Penal Code and under sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012.

2. Heard Ms. Sandhya Nanavare, learned counsel for the applicant and Shri. Palkar, learned APP for the State.

3. The prosecution case is that, the applicant and the victim were having love affair. They even used to have physical relations. They had their sexual intercourse on 3 to 4 occasions earlier, but this fact came to the knowledge of victim's father and there was strong opposition. After that the applicant and the victim stopped meeting each other. Subsequently, in the month of April, 2019 again they met as the applicant called her. Again, at that time, they had their sexual intercourse. It is alleged that it was forceful sexual intercourse. The victim became pregnant. She concealed this fact from her parents and ultimately gave birth to a male child. After this, the F.I.R. was lodged and the applicant was arrested on 30/12/2019. The investigation is over and the charge-sheet is filed.

4. The learned counsel for the applicant submitted that the applicant himself is a young boy and had just crossed 18 years when this incident allegedly took place. She submitted that the victim was having love affair with the applicant since past two years prior to the incident in April, 2019. She submitted that the

relationship was consensual and even on the last occasion there was no forceful intercourse. Even as per her own statement, the applicant's father was sleeping in the same house and she could have raised shouts. She submitted that the applicant and his parents are willing to take responsibility of the child and the applicant is willing to marry the victim.

5. Learned APP, on instructions, makes a statement that the male child delivered by the victim is at present in an Orphanage in Andheri. He invited my attention to the statement of victim recorded during the investigation.

6. I have considered these submissions. The victim's statement itself mentions clearly that they were having love affair since past more than two years when the incident took place in April, 2019. There is considerable substance in the submission of learned counsel for the applicant that, even on the last occasion in April, 2019, there was consensual intercourse with consent of the victim because applicant's father was sleeping in the same house

and victim did not raise any shouts. Of course, consent of a minor girl is immaterial in such cases, however, for consideration of bail this fact can be taken into account. The evidence shows that the victim gave birth to a male child on 30/12/2019. As stated by the learned APP, on instructions, the child is in orphanage. The applicant is willing to take the responsibility of that child. His parents are also willing to support him. This statement is made by the learned counsel for the applicant, on instructions, across bar. Considering the tender age of the victim, as well as, of the applicant and their past consensual relationship, at least for the purpose of bail, the applicant's case can be considered leniently. The investigation is already over and the charge-sheet is filed. The victim herself did not inform about her pregnancy to her parents. Her conduct shows that all along she was supportive of the applicant.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.622 of 2019 registered with Dahisar Police Station, the

applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) Looking at the prevailing circumstances, it may not be possible for the applicant to furnish sureties immediately. Therefore, initially the applicant is permitted to furnish cash bail for the same amount. The applicant will have to furnish the sureties, as directed, within three months from today.
- (iii) The applicant shall not cause any kind of harassment to the victim.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)