

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

CRIMINAL BAIL APPLICATION NO. 2840 OF 2019

Fahim Bhura Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

**WITH
INTERIM APPLICATION NO. 1417 OF 2020**

Sanno Halim Khan

...Applicant/
Intervener/Org. Complainant

IN MATTER BETWEEN

Fahim Bhura Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Hasnain Kazi a/w. Ms Shraddha Vahal i/b. Ahmed Sayyed,
Advocates for the Applicant in BA No. 2840 of 2019.

Mr. Kaynat Shaikh, Advocate for the Intervener in IA No. 1417 of
2020.

Ms. A. A. Takalkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st DECEMBER, 2020.

PC :

1. The applicant is seeking bail in C.R. No. 575 of 2019 registered with Hinjewadi Police Station for the offences punishable under Sections 363, 366(A) and 376(3) of Indian Penal Code, 1860 (“IPC” for short) and Sections 3, 4, 5(J), 5(I) and 6 of Protection of

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Children from Sexual Offences Act, 2012 ('POCSO Act' for short).

Applicant was arrested on 26th April, 2019.

2. The First Information Report ("FIR" for short) was lodged by the mother of victim on 25th April, 2019 alleging that her daughter (victim) aged about 16 years, complained about pain in abdomen. She was taken to doctor. Doctor told her that victim is pregnant. The victim told her that she is in love with the accused and she had accompanied him and there was physical relationship between them. Statement of victim was recorded on 25th April, 2019. She stated that the applicant was visiting her house. They fell in love. She has accompanied him at the mountain and at that time accused had committed sexual intercourse against her wish. The Victim has delivered the child. The applicant was aged about 21 years at the time of incident.

3. On 18th December, 2020 the complainant was present in the Court. Intervention Application has been filed by the complainant. She is represented by Advocate. The Intervener had supported bail application. The submissions were advanced on behalf of the applicant that the applicant is willing to marry the victim girl after she attains majority.

4. Learned counsel for the applicant has tendered the

affidavit of the applicant/accused. It is executed before the Jailer Yerawada Central Prison. In the affidavit, it is stated that there was love relationship between the applicant and the victim girl and the applicant is willing to marry her after she attains majority. It is also stated that the victim girl has delivered a child and that the applicant's parents are taking care of victim girl and the child. It is also stated that the parents have taken separate residential house at Malwadi, Pune and the child is being taken care of. The affidavit is taken on record and marked as 'x' for identification.

5. Learned counsel for the complainant submitted that the Family of the victim has no objection for performance of marriage of the victim girl with the applicant after victim attains majority. The victim is minor at this stage and it would be exclusively within her domain to decide whether she intends to marry the applicant after she attains majority. Considering these circumstances, bail can be granted to the applicant.

6. Hence, I pass the following order.

ORDER

- i) Bail Application No. 2840 of 2019, is allowed;
- ii) The applicant is directed to be released on bail in connection with C. R. No. 575 of 2019 registered

with Hinjewadi Police Station on furnishing PR. bond in the sum of Rs. 25,000/- (Twenty Five Thousand) with one or more sureties in the like amount;

- iii) Applicant is permitted to furnish cash bail security in the sum of Rs.25,000/- for the period of eight weeks in lieu of surety;
- iv) Applicant shall abide by his undertaking. In the event of breach of undertaking, the complainant or the prosecution would be at liberty to prefer an application for cancellation of bail;
- v) Bail Application No. 2840 of 2019 stands disposed of.
- vi) Interim Application No. 1417 of 2019 stands disposed of accordingly.
- vii) This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)