

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 42 OF 2021

Mahesh Ramchandra Chanekar

..... Applicant

V e r s u s

State of Goa,
Thr. The Police Inspector
Pernem Police Station,
Pernem & anr.

.....Respondents

Mr. Pavithran AV, Advocate for the Applicant.

Mr. Pravin Faldessai, Additional Public Prosecutor for the State-Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 8th April, 2021

P.C.

On 15.06.2020, the applicant came to be arrested in Crime no.103/2020 for an offence punishable under Section 376 and 506 of Indian Penal Code, Section 4 of POCSO Act and Section 8 of Goa Children Act, 2003.

2. The allegation against the Applicant is, he being a qualified teacher, used to engage a private tuition under which pretext, he established physical and sexual relation, and thereby exploited the Complainant. The

Applicant is already chargesheeted. The statement of the victim is recorded under Section 164 of the Criminal Procedure Code, when she is stated to be of the age of 21 years. The allegations against the Applicant are, for the first time he carried out the offensive act in 2015 when the victim was 16 years old and he continued with such act till the date of filing of the complaint.

3. I have perused the statement of the victim recorded under Section 164 of Cr.P.C., the medical certificate which speaks of the evidence of vaginal penetration and the statement of witnesses including one Aarti, who happens to be the friend of the victim, to whom, the offence was disclosed for the first time.

4. Apart from the fact that the complaint was lodged at much belated stage i.e. after the Complainant attained majority, it is noted that the indictment of the Applicant by the victim, is not supported by the statement of the parents of the victim. Apart from above, the conduct of the victim of lodging a complaint after a period of five years, is also required to be taken note of. She being a science student, her age of maturity prompts this Court to, prima facie, believe that she had sufficient knowledge and capacity to understand the full import of the repeated alleged sexual act of the Applicant

and the consequences thereof. Said important aspect cannot be ignored while appreciating the case of the Applicant for grant of bail.

5. The investigation in the matter is already complete as the Applicant is already chargesheeted. The Complainant for almost five years regularly submitted to the call of the Applicant. It is not her case that Applicant promised her to marry him. The conduct of the victim of not disclosing act of Applicant to her parents, other teachers is also required to be appreciated.

6. In the aforesaid background, the claim of the Applicant that allegations are not supported by any sound piece of evidence particularly at the present stage, warrants this Court to show interference.

7. In my opinion, for the reasons aforesaid, the case for grant of bail is made out.

8. As such, it is ordered that the Applicant in Crime no. 103 of 2020 registered with the non-applicant is ordered to be released on bail upon furnishing PR bond of ₹ 25,000/- with one or more surety in the like amount.

9. The Applicant shall not influence the witnesses or tamper with

the evidence and shall not establish contact directly or indirectly with any of the witnesses.

10. The application is allowed in the above terms.

NITIN W. SAMBRE, J.