

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1935 OF 2021

ANAND @ BALU SHIVAJI BHOI)...APPLICANT

V/s.

**1) THE STATE OF MAHARASHTRA)
2) MS. 'A')...RESPONDENTS**

Mr.Vilasini Balasubramanian i/b. Mr.Jaydeep Mane, Advocate for the Applicant.

Smt.PPShinde, APP for the Respondent – State.

Ms.Shraddha Sawnt, Appointed Advocate for Respondent No.2.

CORAM : V. G. BISHT, J.

**RESERVED ON : 26th OCTOBER 2021
PRONOUNCED ON : 15th NOVEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.434 of 2020 registered with Police Station Karkamb,

for offences punishable under Section 376(3), 354(D), 504, 506 of the Indian Penal Code (IPC) and Section 4 and 27 of Arms Act and under Section 4, 6, 8, 9, 12 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2 It is the case of prosecution that the applicant was known to family of victim. It is alleged that in between August 2019 to 25th December 2020, the applicant by giving threats with the help of knife, from time to time, sexually exploited the victim. It is pertinent to note that victim on the date of lodging of report was 13 years old. The First Information Report (FIR) accordingly came to be registered.

3 Ms.Vilasini Balsubramanian, learned counsel for the applicant, submits that there is a delay of more than one year in lodging of FIR. Prosecution has presented altogether a different story and in reality the victim was in love with the applicant. To buttress this submission, learned counsel invited my attention to the love letter written by the victim to the applicant. In such

circumstances, according to the learned counsel, since the investigation is completed and charge-sheet has been filed, no useful purpose would be served by keeping the applicant behind the bars. There are no criminal antecedents and the applicant is ready to abide by all the conditions imposed by the Court.

4 Smt.P. P. Shinde, learned APP, on the other hand, opposed the submissions by contending that the victim was minor and then invited my attention to the Medical Certificate pertaining to the victim. There being no merit in the application, the same is liable to be rejected, argued learned APP.

5 Smt.Shradha Sawant, learned counsel representing respondent no.2 / victim also supported submissions advanced by learned APP and submitted that the victim was sexually exploited under threats. Having regard to the seriousness of offence, the application deserves to be dismissed.

6 Perused investigation papers. As far as age of victim is concerned, there is no dispute that at the time of alleged incident the victim was minor. However, what is pertinent to note is the love letter written by the victim to the applicant. Perusal of the love letter would show that she was madly in love with the applicant. This love letter is nowhere assailed by the prosecution. It may be that the victim was minor at the time of incident but having regard to the love letter and the way in which FIR has been drafted demonstrates that in order to teach the applicant a lesson, FIR came to be drafted in a particular fashion. Having regard to over all circumstances and the fact that investigation is completed and charge-sheet has been filed, in my considered opinion, the applicant need not be allowed to remain behind the bar. I am inclined to allow the application, however with certain conditions. In view of above, I pass the following order :

ORDER

- (i) Applicant – Anand Balu Shivaji Bhoi shall be released on bail in Crime No.434 of 2020 registered with Police Station

Karkamb, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer.
- (iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (v) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)