

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

BAIL APPLICATION NO. 332 OF 2021

Ram Sukhdeo Durgesh	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Prabhanjan B. Gujar for the Applicant.
Ms. Prajakta P. Shinde, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 03rd MAY, 2021.

P. C. :-

. This is the 2nd Bail Application filed by the Applicant who is facing trial in Special (Child Protection) Case No.199/2017 for offenses under Section 363, 376(1) of the Indian Penal Code and Section 3 and 4 of Protection of Children from Sexual Offences Act, 2012.

2. The previous Bail Application was dismissed on 05/10/2018 in view of the statement made by the learned APP that the evidence was almost concluded and that the case was at the fag end. Directions were given to the Additional Sessions Judge, Pune to dispose of the case within a period of two months from the date of the order.

3. It is stated that even after a period of three years, the trial has not

yet concluded. The report submitted by the Additional Sessions Judge, Pune reveals that after the date of the order, the accused had sought recall of prosecution witnesses who were already examined. It is further stated that the evidence of the victim girl could not be recorded as she is married and that she is in an advance stage of the pregnancy.

4. The Application is therefore heard on merits. The material on record *prima facie* reveals that the victim girl was 17 years of age as on the date of the incident. In her statement dated 28/07/2016, recorded under Section 161 of Cr.P.C., she has not implicated the Applicant but had claimed that she was sexually abused by one Sanjay Gaikwad. She had implicated the Applicant for the first time in her supplementary statement recorded on 09/09/2017. Her statement reveals that she was in love with the Applicant and that she had left the house on 28/03/2016 and lived with the Applicant in a rental premises. She had returned to her paternal house only after she had realized that she was pregnant.

5. The supplementary statement is *prima facie* inconsistent with the statement recorded on 28/07/2016. It is stated that the pregnancy was terminated. However, the foetus was not sent for DNA testing. Hence,

there is no prima facie material to prove the involvement of the Applicant. It is stated that the victim is unable to come before the Court due to her condition. Considering this fact and the nature of the evidence, this is a fit case to release the Applicant on bail. Hence, the following order :-

- (a) The Bail Application is allowed.
- (b) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties in the like amount.
- (c) The applicant shall furnish his permanent address and temporary address, if any, and his contact details to the concerned Court.
- (d) The applicant shall not change his residential address without prior intimation to the Investigation Officer and to the concerned Court.
- (e) The applicant shall not interfere with the victim and other witnesses in any manner and shall not tamper with the evidence.
- (f) The applicant shall report to the Investigation Officer and in his

absence to the Senior Police Inspector, Dehu Road Police Station on 01st Monday of every month until further orders.

(g) The Applicant shall appear before the Court of Sessions Judge on each and every date of hearing.

(SMT. ANUJA PRABHUDESSAI, J.)