

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

CRIMINAL BAIL APPLICATION NO.997 OF 2021

Balaji Rajaram Bhosale
versus
State of Maharashtra

.... Applicant

.... Respondent

.....

- Mr.V. V. Purwant a/w Rushikesh Kale, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 12th MARCH, 2021**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.968/2020 registered with Indapur Police Station, Pune, under sections 363, 366, 366-A, 346 of the Indian Penal Code and under section 4, 8 and 12 of The Protection of Children from Sexual Offences (POCSO) Act, 2012. The Applicant was arrested on 26/09/2020 and since then he is in custody. Investigation is carried out and the charge-sheet is filed.
2. The FIR is lodged by the victim herself. She has stated in her FIR that at the time of lodging of the FIR in September 2020, she was 18 years of age. She has stated that on

31/08/2019 she was admitted to a hospital at Indapur, as she had fallen from a two wheeler. At that time, she was 17 years of age. She was in the hospital for about 15 days. There the Applicant's mother was admitted for treatment. During the said period, in the hospital, the informant got acquainted with the present Applicant. The FIR thereafter mentions that the Applicant expressed his love for her. It is her case that she was taken to his house at Sarafwadi and then he had forcible physical relations with her in an agricultural field. It is her case that he told her that she should not inform this incident to her parents, otherwise they would be killed. She got frightened and started residing together with the Applicant. She got pregnant and delivered a child. It is her case that after birth of their child, the Applicant started suspecting her character. The informant's mother searched for her and came to the Applicant's house to take the informant back. It is alleged that the Applicant assaulted her mother. After all this, the FIR was lodged.

3. Heard Mr.V. V. Purwant, learned counsel for the Applicant and Ms.A.A. Takalkar, learned APP for the State.

4. Learned counsel for the Applicant submitted that though technically she was below 18 years of age, her conduct shows that she was in consensual relationship with the Applicant. She was 17 years of age at that time. That means she was aware of her act. He submitted that for consideration of bail, this relationship should be taken into account.
5. Learned APP opposed this application. She submitted that the school record shows that the victim as born on 01/06/2004. Therefore at the time of incident, she was about 16 years and 3 months of age. Therefore, the defence of consensual relationship is not available to the Applicant.
6. I have considered these submissions. Besides the F.I.R. statement, the victim has given her statement u/s 164 of Cr.P.C. In that statement she has stated that she had eloped with the Applicant directly from the hospital. But at his house, the Applicant's parents and his first wife started quarreling with her. Therefore the Applicant was called to police station. At that time, the Applicant and his parents assured that she would be

treated properly and therefore she started residing with the Applicant. Thereafter she delivered their child. This statement also shows that the informant had willingly eloped with the present Applicant. Looking at their relationship, the Applicant's case can be considered leniently for grant of bail. Investigating is over and the charge-sheet is filed. No purpose will be served by detaining the Applicant for the entire period of trial. Trial is not likely to commence and conclude soon. Hence the Applicant can be granted bail in this case.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.968/2020 registered with Indapur Police Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)