

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2209 OF 2021

VIKAS BHAURAO ROKADE

)...APPLICANT

V/s.

1) THE STATE OF MAHARASHTRA

)

2) X

)...RESPONDENTS

Mr.Ganesh Gole i/b. Mr.Ateet Shirodkar, Advocate for the Applicant.

Smt.Anamika Malhotra, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 17th NOVEMBER 2021
PRONOUNCED ON : 25th 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.331 of 2019 registered with Police Station Yavat, Pune, for offences punishable under Section 363, 376, 366 of the Indian Penal Code (IPC) and under Section 4, 8 and 12 of Protection of Children from Sexual Offences Act (POCSO Act).

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2 According to the prosecution, victim at the relevant time was 13 years 2 months old and was a student of Class 7. On 11th April 2019, at about 11.00 a.m., she left for school but did not return till evening. Accordingly, the informant's father lodged report.

3 During the course of investigation it revealed that applicant and victim were in love with each other and as the informant wanted to get the victim married, both the applicant and victim decided to run away from the house. It is further alleged that they travelled various places in Maharashtra and also had physical relations. After conclusion of investigation charge-sheet came to be filed.

4 Mr.Ganesh Gole, learned counsel for the applicant, submits that the present case is of love affair. It may be that the victim is a minor girl, however, she on her own had run away with the applicant. The learned counsel also invited my attention to the statement of victim dated 16th October 2019 and as also

the statement recorded under Section 164 of the Code of Criminal Procedure (Code) by learned Judicial Magistrate First Class, Daund, in order to point out the inconsistencies between the two statements. Investigation is completed. There are no criminal antecedents. Having regard to the age of the applicant, it would not be desirable to keep him behind the bars and for all these reasons, the application needs to be allowed, urged learned counsel.

5 Smt. Anamika Malhotra, learned APP, on the other hand, opposed the submissions by submitting that the victim was only 13 years 2 months old when the incident in question took place. Therefore, no leniency should be shown.

6 The learned counsel for respondent no.2 – informant also opposed the application by contending that the victim was minor and then emphasised the statement of the victim recorded under Section 164 of the Code by the learned Judicial Magistrate First Class, Daund. There being no merit in the application, the

same is liable to be rejected.

7 Perused the investigation papers. I have gone through the statement of victim dated 16th June 2019. From the statement apparently and there is no dispute to the fact, that the minor, at the relevant time was 13 years 2 months old. Her statement would show that she was in love with the applicant and when her parents decided to fix her marriage, she narrated this fact to the applicant whereupon both of them decided to run away. On 11th April 2019, accordingly, from Daund they went to Latur and from there to Ahmednagar, Jamkhed and lastly to Village Ashti at applicant's aunt's place. At all these places both of them had physical relations.

8 I have also gone through statement recorded under Section 164 of the Code by learned Judicial Magistrate First Class, Daund. In the said statement, she has improved her earlier version and tried to give a colour to the whole incident as if she

was forcibly taken by applicant with the help of his friend, namely, Sonya Damodare.

9 From the material on record it is clear that the victim at the relevant time was of only 13 years 2 months old. However, her conduct speaks a lot. Even otherwise, having regard to the age of the applicant and as also circumstances of the case, in my considered opinion, no fruitful purpose would be served by keeping the applicant behind the bars, particularly when the investigation is over and charge-sheet has been filed. No criminal antecedents are forthcoming on record.

10 In view of this, I am inclined to allow the application. Hence, I pass the following order.

ORDER

- (i) Applicant – Vikas Bhaurao Rokade shall be released on bail in Crime No.331 of 2019 registered with Police Station Yavat, Pune, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.

- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the trial Court regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)

