

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

BAIL APPLICATION NO. 1302 OF 2020

Samshad Hazratali Khan

.. Applicant

Vs.

The State Of Maharashtra & Anr.

.. Respondents

.....

Mr. Arun Rajput, Advocate for Applicant.

Mr. A.R. Kapadnis A.P.P. for the State-Respondent.

.....

Arjun
M.
Kadam

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**CORAM : PRAKASH D. NAIK, J.
DATE : 17th FEBRUARY, 2021**

PC.

1. This is an application for bail the applicant is arrested in connection with C.R. No.364 of 2020 registered with M.H.B Police Station for the offence punishable under Section 376 of Indian Penal Code (for short "IPC") and Sections 4, 8 and 12 Protection of Children from Sexual Offences (for short "POCSO") Act, 2012.

2. The prosecution case is that complaint is lodged by victim girl aged about 15 years on 27th June 2020. It is alleged that in December 2019 she came across one boy who told her that he loves her and want to marry her. He gave his name as Salman Khan. After a week he gave his true name as Samshad Hazratali Khan. The complainant told him that her age is 15 years and at that time the accused told her that he

is willing to wait for 3 years and he would talk to her parents. Thereafter, both of them used to talk to each other on phone. On 04th January 2020 the accused came near the house at about 11.00 p.m. and told her to join him as he wants to introduce to his father. Both of them went together and the applicant accused took her to room premises at Boriwali (W.). The room was closed. The accused opened the room and took her inside the room. She inquired where is his father. Thereafter, he told her that he would come. The accused closed the room and told her that he is going to marry her. Thereafter, he had sexual intercourse with the complainant. The victim left the place of incident. Thereafter, both of them used to talk to each other. There was physical relationship between them. On 25th June 2020 the applicant accused again came near the house and took her to secluded place. He committed sexual intercourse with her. The mother of the complainant inquired with the complainant as to who is calling her repeatedly. The victim told about relationship with the applicant to her mother. Both of them went to the Police Station and complaint was lodged on 27th June, 2020.

3. Learned counsel for the applicant submitted that there is discrepancy in the date of birth of the victim girl. The relationship was

consensual. The applicant is boy aged about 20 years. Both of them were in relationship. He relied upon photographs showing that the applicant and the complainant was where having love affair. The applicant is in custody from date of arrest. Further custody is not necessary.

4. Learned APP submitted that the victim was minor at the time of incident. Promise was made by the applicant that he would marry victim. Offences are clearly made out.

5. The applicant and the victim were closely acquainted with each other. The applicant had allegedly promised the victim that he would marry her. There was physical relationship between them on several occasions. The complainant has admitted that there was love affair between them Since her mother questioned her she disclosed the relationship to her and thereafter the FIR was lodged. Considering the circumstances further detention of the application is not necessary. The applicant is in custody from 28th June 2020. Investigation is completed and charge-sheet is filed. Hence, bail can be granted to the applicant.

ORDER

- (i) Criminal Bail Application No.1302 of 2020 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No.364 of 2020 registered with MHB Police Station, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall not approach the victim and shall not tamper with evidence in any manner;
- (iv) The applicant shall not enter into the vicinity where the victim resides till conclusion of trial;
- (v) The applicant is permitted to furnish provisional cash bail security in the sum of Rs. 25,000/- for a period of eight weeks in lieu of surety;
- (vi) Bail application is disposed of.

(PRAKASH D. NAIK, J.)