

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

CRIMINAL BAIL APPLICATION NO.1486 OF 2020

Sagar Satish Patole	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Pankaj P. Deokar, Advocate for the Applicant.
Mr. S.H. Yadav, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.78/2020 dated 29.2.2020 registered at Wadgaon Nimbalkar police station, Pune Rural under Section 363 of the Indian Penal Code. Subsequently, Section 376(2)(n) and 366 of IPC as well as Section 4 of the Protection of Children from Sexual Offences Act are added.

2. Heard Shri Pankaj Deokar, learned Counsel for the Applicant and Shri S.H. Yadav, learned APP for the State.

3. The FIR is lodged by the father of the victim. The victim was 16 years & 7 months of age on the date of incident. The FIR was lodged because the victim had gone missing from her house since 28.2.2020. She had gone to attend her examination in the morning, but, did not return. On this basis, the FIR is lodged. The investigation was carried out and during the investigation the victim was found. The prosecution case is that the victim had gone with the present Applicant. She was a minor. They had physical relations and, therefore, other sections were added.

4. Learned Counsel for the Applicant submitted that her own statement shows that it was a consensual relationship. He submitted that, therefore, though she was below 18 years of age and though the offences as defined under the Act are made out, for consideration of bail leniency may be shown.

5. Learned A.P.P. opposed this application. He submitted that the ingredients of Sections applied in this case are squarely made out and, therefore, bail cannot be granted.

6. I have considered all these submissions, and in particular, I have perused the statements of the victim herself. Her statement recorded by the police on 1.3.2020 gives details of her love affair with the Applicant. She has admitted that even prior to that incident they were meeting regularly in an agricultural field and they had established physical relations. On 28.2.2020, she on her own, had willingly accompanied the Applicant to go away from their village. Both of them had stayed in a room and had their physical relations. On 1.3.2020 the police and her relatives came searching for her and took her back.

7. Her statement recorded under Section 164 of Cr.P.C. on 6.4.2020 gives slightly different version, where she has stated that the Applicant had taken some photographs and based on those photographs, he forced her to have physical relations. Using such threats, he had forced her to go with him on 28.2.2020.

8. However, this second statement recorded on 6.4.2020 obviously appears to be an afterthought. Her first

statement before the police gives details of their love affair. The Applicant himself is a young boy of 21 years of age. The trial is not likely to commence in near future. Therefore, in this background for consideration of bail leniency can be shown to the present Applicant. Hence, the following order :

ORDER

- (i) In connection with C.R.No.78/2020 dated 29.2.2020 registered at Wadgaon Nimbalkar police station, Pune Rural, 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) The Application stands disposed of accordingly.

Digitally
signed by
Pradeepkumar
P. Deshmane
Date:
2021.02.22
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(SARANG V. KOTWAL, J.)

Deshmane (PS)