

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

BAIL APPLICATION NO. 3106 OF 2019

Mahendra @ Bapu Sunil Navghare ... Applicant

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. Aniket Nikam i/by Mr. Vivek N. Arote, Advocate for the Applicant.

Ms. Veera Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd JULY, 2021

PER COURT:

1. The applicant is arrested on 4th May, 2019 in connection with C.R. No. 708 of 2018 registered with Pandharpur Police Station, Dist. Solapur for offences under Section 363, 366 & 376 of Indian Penal Code (for short “IPC”) and Sections 8, & 12 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’). The First Information Report (for short ‘FIR’) was lodged on 28th August, 2018.

2. The case of the prosecution is that on 28th August, 2018, the victim girl left the house without informing anyone. The age of the victim is 15 years, 10 months. Hence, the complaint was

lodged, alleging that some person had enticed the victim girl and kidnapped her. Subsequently, the victim was traced and her statement was recorded on 2nd September, 2018. In the said statement she stated that on 28th August, 2018 while the victim has left the house for answering nature's call, the applicant met her. He told her to meet him. The victim then met the applicant. She accompanied him. They went to the bus stop. They boarded the bus and proceeded to Tungat. Thereafter, they further travelled via Solapur-Tuljapur and reached at the premises of the cousin of the applicant. All of them stayed in the said premises on 29th August, 2018 to 1st September, 2018. The applicant/accused promised her that he would marry her and established physical relationship. Subsequently, she was told that her family had lodged the complaint with Pandharpur City Police Station and told her to return to her house. The ticket of the S.T. bus was booked and she was dropped at the bus stand. The victim then joined her family. Her statement was recorded under Section 164 of Cr.P.C. In the said statement she has referred to the fact that she accompanied the applicant and stayed with him. There was physical relationship between them. Statements of witnesses were recorded and charge-sheet was filed.

3. Learned counsel for the applicant submitted that the applicant is in custody for a period of about two years. The victim was of age of understanding. She had accompanied the applicant. The relationship was consensual. There was friendship between them.

4. Learned APP submitted that the victim was minor. Her consent is immaterial. She was forced to join him by the applicant. Her statements under Sections 161 & 164 of Cr.P.C. is required to be taken into consideration.

5. On perusal of the statements of the victim and the other documents on record it is apparent that the victim had accompanied the applicant. She travelled with him and stayed along with the cousin of the applicant together. There was physical relationship between them. The victim was aged about 15 Years, 10 months. Apparently, the relationship consensual. The applicant is in custody for last two years. Considering the factual aspects, bail can be granted to the applicant.

5. Hence, I pass the following order:

ORDER

- (i) Criminal Bail Application No.3106 of 2019 is allowed;
- (ii) The applicant is directed to be released on bail in

connection with C.R. No. 708 of 2018 registered with Pandharpur Police Station, Dist. Solapur on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall report concerned Police Station once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;

(iv) The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of twelve weeks in lieu of surety.

(v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)