

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.531 OF 2022

Manoj @ Montya Yashwant Sonawane ..Applicant

Vs.

The State of Maharashtra and anr. ..Respondent

Mr.M.V.Bhamre, Advocate for applicant
Mr.V.S.Badakh, APP for respondent no.1
Ms.Saie Joshi, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : JULY 29, 2022**

ORDER :-

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0028 of 2020 registered with Dondaicha Police Station, Dhule.

2. Heard learned counsel appearing for the parties.

3. The FIR was lodged by the mother of the victim on 26.02.2020. It is alleged in the FIR that the applicant herein induced/lured respondent no.2 (victim) who was 13 years and 4 months old at the relevant time, to accompany him. He first took her to Pimpalner, District Dhule. Both of them stayed together for nine months. During

the stay, the applicant had sexual intercourse with the victim many a time as a result of which, she conceived and even delivered a baby. The statement of the victim and the persons acquainted with the facts and circumstances of the case, were recorded. The applicant and the victim were subjected to medical screening. The new born is stated to be at a child care centre.

4. Learned counsel for the applicant submits that the applicant is little over 18 years of age. It appears to be a case of consensual relationship. In proof of age of the victim, there is a certificate issued by Zilla Parishad School. There is no DNA report indicating the applicant to be the biological father of the new born. According to him, it will take time for commencement and conclusion of the trial. Learned counsel would submit that considering the age of the applicant and the fact that it is a consensual relationship, the application may be allowed.

5. Learned APP opposed the application contending that the victim was just little over 13 years of age and her consent was immaterial.

6. Learned counsel appointed to represent the victim has relied on a judgment of the Apex Court in the case of **X (Minor) Vs.**

The State of Jharkhand and anr., 2022 Live Law (SC) 194, wherein the Apex Court has cancelled bail of the accused before it. In that case, the victim had approached the Apex Court in S.L.P. for cancellation of bail granted to the applicant therein.

According to learned counsel in the present case, since the applicant, at the relevant time, was 18 plus, he was major and was of the age of understanding of the consequences of his acts. Learned counsel would submit that the trial Court may be requested to expedite hearing of the case instead of granting bail to the applicant herein.

7. Considered the submissions advanced. Reading of the judgment relied on by learned counsel for the victim in the case of **'X' (Minor) Vs. The State of Jharkhand** (supra), indicates that there was no material to indicate the age of the accused therein. True, the victim therein was 13 years of age.

8. In the case in hand, the applicant's age was 18 at the relevant time. It is a case of consensual relationship. He has been behind the bars since 23.10.2020 i.e. for about 20 months. The trial has not yet commenced. In this factual backdrop, this Court is inclined to grant him bail.

9. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0028 of 2020 registered with Dondaicha Police Station, Dhule, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

(iv) The applicant shall not enter village Madal, Dist. Dhule, until conclusion of trial.

(v) Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.6,000/- (Rupees Six Thousand).

[R.G. AVACHAT, J.]

KBP