

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO.563 OF 2022**

Ayub Sikandar Shaikh	..Applicant
Vs.	
The State of Maharashtra and anr.	..Respondent

Mr.Shaikh Mazhar A. Jahagirdar, Advocate for applicant
Mr.N.T.Bhagat, APP for respondent no.1
Mr.M.K.Bhosale, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : JULY 13, 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.0493 of 2021 registered with Shrirampur City Police Station, Shrirampur, Dist. Ahmednagar.

2. Heard learned counsel appearing for the parties.
3. Learned counsel for the applicant first took this Court through the FIR, wherein the applicant's name does not figure. Then, he read out the statement of the victim and invited this Court's attention to the history given by her to the Medical Officer at the time of the medical screening. Relying on this material, he urged for grant of bail.

4. Learned APP and learned counsel for the victim would, on the other hand, submit that the victim was below 16 years of age. Her statement indicates that the applicant sexually exploited her by extending threats to her life. Learned counsel has relied on a judgment of Sikkim High Court in the case of **Panna Lal Agarwal Vs. State of Sikkim, 2018 All MR (Cri.) Journal 456.**

5. Considered the submissions advanced. The FIR has been lodged by mother of the victim. It has been lodged against unknown person. The statement of the victim indicates that she gave her age as 15 years and 18 months. She, however, admitted to have been emotionally involved with the applicant for over one and half years next before the alleged incident. Although in her statement, she states that the applicant had kidnapped her, the record indicates that both of them stayed together for a period of one month. Same indicates consensual relationship. Although in her statement, she attributed the applicant the sexual assault on her, the statement given by her to the Medical Officer, while she was medically examined, indicates that she stated that the applicant did not have sexual intercourse with her. As such, it is a matter of evidence as to whether the offence in question did really take place. The applicant

is just 19 years of age. The charge sheet has been filed. It will take time for commencement and resultant conclusion of the trial. In the fitness of things, the applicant deserves to be granted bail.

6. The case of **Panna Lal Agarwal** (supra) relied on by learned counsel for the victim is distinguishable on facts. The accused therein snapped nude photographs of the victim therein and made them viral.

7. Hence, the following order:-

(i) The application is allowed.

(ii) The applicant be released in connection with Crime No.0493 of 2021 registered with Shrirampur City Police Station, Shrirampur, Dist. Ahmednagar, 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.

[R.G. AVACHAT, J.]