

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

BAIL APPLICATION NO. 749 OF 2022

Amol Sambhaji Gabare ... Applicant

Versus

The State of Maharashtra and another ... Respondents

....

Mr. Uttam L. Telgaonkar, Advocate for applicant

Mr. G. O. Wattamwar, APP for respondent No.1

Ms Jayshree Ghorpade (Nawale), Advocate (appointed) for
respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 13th JULY, 2022

PER COURT :-

. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0036/2022, registered with Basamba Police Station, District Hingoli, for the offence punishable under Sections 363, 354, 354-A, 354-D, 323, 324, 341, 504, 506 and 500 of the Indian Penal Code and under Sections 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. Heard.

Perused the First Information Report (FIR) and the related police papers.

3. Learned Advocate for the applicant would submit that there is delay in lodging the FIR. He would further submit that it is a consensual relationship. The investigation is over and the charge-sheet has been filed. He, therefore, urged for grant of application.

4. The learned APP and the learned Advocate appointed to represent the victim would, on the other hand, submit that the applicant is a Home-guard. He is misusing his position. He had threatened the victim to make viral their photographs. Both the learned Advocates, therefore, urged for rejection of the application.

5. Considered the submissions advanced. Perused the FIR. The applicant allegedly intercepted the victim while she was on her way to school. It also appears from the FIR that he asked her and her friend to board his car to drop them to the school. However, he took them to somewhere else and when he was questioned, then he brought them back.

6. After having appreciated the material collected by the prosecution, it appears to be the case of emotional involvement. The applicant is behind the bars for little over 4 and 1/2 months. The investigation is over. Charge-sheet has been filed. The overt act attributed to him is that of having kissed the victim. It is informed that the cell-phone wherein the photographs of the victim were taken, the same has been seized by the Investigating Officer. The appropriate authorities may take action against the application for his removal from being a member of Home-guard. In this view of the matter, the application is allowed in terms of following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime No.0036/2022, registered with Basamba Police Station, District Hingoli, for the offence punishable under Sections 363, 354, 354-A, 354-D, 323, 324, 341, 504, 506, 500 of the Indian Penal Code and under Sections 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond in the like amount.

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

7. Fee of the learned Advocate (appointed) to represent respondent No.2 is quantified at Rs.6,000/- (Rupees Six Thousand).

[R. G. AVACHAT, J.]

SMS