

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

BAIL APPLICATION NO. 1138 OF 2022

Kiran Nanasaheb Punde	... Applicant
Versus	
The State of Maharashtra and another	... Respondents

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Mr. K. J. Tandale, Advocate for applicant

Mr. V. S. Badakh, APP for respondent No.1

Ms Satyabhama Awad, Advocate (appointed) for respondent No.2

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CORAM : R. G. AVACHAT, J.

DATED : 06th SEPTEMBER, 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.0503/2022, registered at Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 376, 376(2)(j), 504, 506 of the Indian Penal Code, under Sections 4, 8 of the Protection of Children from Sexual Offences (POCSO) Act and under Sections 3(1)(r), 3(1)(s), 3(1)(w), 3(1)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

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

The FIR has been lodged by the mother of the victim on 16.06.2022. It is her case that the applicant and the victim, 17 years and 8 months old, were emotionally involved. Both of them used to meet each other in a lodge. The applicant had, even promised to marry her. When the informant returned home by 6.00 in the evening on 13.06.2022, she found her daughter not home. A search was therefore made for her. It was found that she had gone to Pune in response to a call made by the applicant herein.

The statement of the victim has already been recorded, wherein she claimed to have been emotionally involved with the applicant herein. It is her case that the applicant had promised to marry her and therefore, she would meet him in a lodge. The applicant had on such occasions sexually exploited her.

3. The learned APP and the learned Advocate appointed to represent the victim would submit that, consent of the victim was immaterial when she was below 18 years of age. It is also submitted that the applicant did not co-operate with the investigation. He gave evasive replies. Investigation is still underway. Both of them, therefore, urged for rejection of the application.

4. Considered the submissions advanced. The applicant is 23 years of age. The victim is just 2 – 4 months less than 18 years of age. It is the case of emotional involvement. Sexual assault allegedly made by the applicant dates back to a year before the FIR was lodged. The applicant has been behind the bars for little over 2 ½ months. It is informed that the charge-sheet has been filed. It will necessarily take time for commencement and conclusion of trial. Hence, application is allowed in terms of following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0503/2022, registered at Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 376, 376(2)(j), 504, 506 of the Indian Penal Code, under Sections 4, 8 of the Protection of Children from Sexual Offences (POCSO) Act and under Sections 3(1)(r), 3(1)(s), 3(1)(w), 3(1)(i), 3(1)(w)(ii), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

(iv) Fees of the learned Advocate Ms Satyabhama Awad (appointed) is quantified at Rs.6,000/- (Rupees Six thousand).

[R. G. AVACHAT, J.]

SMS