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

BAIL APPLICATION NO. 89 OF 2022

Suyash Dattatraya Pansare

.... Applicant.

V/s

State of Maharashtra

..... Respondent.

Mr. Harshad Bhadbhade a/w Arya Sapre i/b Pradyumna Waghmare
for the Applicant.

Mr. N.B. Patil, APP for Respondent No.1.

Ms. Shanika Mansukhani for Respondent No.2 i/b Anandini Fernandes
for Respondent No.2.

PI S.P. Dhamdhare, Market Yard Police Station, Pune, present.

CORAM: NITIN W. SAMBRE, J.

DATE: SEPTEMBER 28, 2022

P.C.:-

1] Applicant is seeking regular bail in C.R. No.145 of 2021 registered with Market Yard Police Station, Pune for the offences punishable under Sections 376, 385, 323, 504, 506(2) of the IPC, under Sections 4 and 8 of the POCSO Act and under Section 66(E) of the Information and Technology Act.

2] After arrest of the Applicant on 21/10/2021, he has been

charge-sheeted.

3] The case of the prosecution is, at the relevant time, when sexual assault was committed by the Applicant, victim girl was minor and as such provisions of POCSO Act are invoked. It is further case of the prosecution that the Applicant tried to extort money from the victim girl.

4] Counsel for the Applicant while making out case for grant of bail would urge that Applicant and the complainant were in long standing relationship. He would further urge that, after arrest, already mobile phone of the Applicant has been seized and noting incriminating is noticed from the said mobile. He would further urge that relationship was consensual and it was the complainant who was in love with the Applicant.

5] Learned APP assisted by the Counsel for the complainant would urge that even if the complaint is lodged after victim became major, fact remains that alleged offence had been committed in 2019, when

the victim was minor. It is further claimed that Applicant has also threatened the victim of causing bodily injury, if he is released on bail. Both the Counsel would urge that apart from medical evidence, contents in the FIR and other investigation papers satisfy very ingredients of the offence alleged.

6] I have appreciated said submissions.

7] Victim has lodged complaint on 21/10/2021, day on which Applicant was apprehended in the aforesaid offence. It is claimed by her that on 19/10/2021, Applicant tried to extort the amount of Rs 1,70,000/- by blackmailing her with threat to make her photographs viral. It is also claimed in the FIR that in 2019, Applicant has established physical relationship with the Applicant. Said contents if are appreciated in the light of statement of victim recorded under Section 164 of Cr.P.C., victim girl has admitted the fact that she was in love with the Applicant and had long standing relationship since 2016. Victim herself has stated that she has migrated in 2019 for her education in Gujarat. Allegations in the FIR further speak of alleged

sexual assault in her own house when she has invited the complainant to her place. As such, prosecution story is not reposing confidence qua commission of offence in question, as on one side complainant is claiming that she was sexually assaulted and blackmailed thereby causing extortion and on the other in statement under section 164 of Cr.P.C. she has claimed that she was in love with the Applicant.

8] In this backdrop, false implication of the Applicant cannot be ruled out. There is unexplained delay of more than two years in lodging FIR. Even if it is presumed that offence is committed by the Applicant in 2019 as has been claimed, fact remains that on the relevant date, when alleged offence was committed, Applicant himself was a minor.

9] In the aforesaid backdrop, in my opinion, case for bail is made out.

10] Applicant is directed to be released on bail in C.R. No.145 of 2021 registered with Market Yard Police Station, Pune for the

offences punishable under Sections 376, 385, 323, 504, 506(2) of the IPC, under Sections 4 and 8 of the POCSO Act and under Section 66(E) of the Information and Technology Act on execution of P.R. Bond of Rs 25,000/- with one more more sureties in the like amount. Applicant shall neither influence the witnesses nor tamper with the evidence. Applicant shall attend the trial regularly. Till charge is framed, he shall remain outside the jurisdiction of the concerned Police Station.

11] Application is disposed of.

(NITIN W. SAMBRE, J.)