

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

BAIL APPLICATION NO.257 OF 2022

Vrushabh Sudhir Shinde

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Zaid Qureshi for the Applicant.

Ms Manisha Devkar for Respondent No.2.

Ms V. Shinde, APP for Respondent No.1-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED :29th NOVEMBER, 2022.

P. C. :-

1. The words of George Bernard Shaw “*first love is only a little foolishness and a lot of curiosity*” aptly describes the predicament that the two teenagers found themselves in. The Applicant, a young boy of 19 years of age, pursuing his Diploma in Civil Engineering and the victim girl, a class-12 student above 16 years of age, got entangled in a romantic relationship. Driven by infatuation and confused with concept of love, they fantasised marriage and believed in the myth of *happily ever after*, as much as any other teenager. Driven by emotions, immature impulse and biological inquisitiveness and cravings they indulged in sexual relationship unmindful of drastic consequences. It

did not take long for the relationship to fall apart and culminated in the victim girl lodging the FIR against the Applicant for sexually abusing and subjecting her to rape.

2. Pursuant to the FIR lodged by the victim, Crime No.273 of 2021 came to be registered with Khadakroad Police Station, Pune, for offences punishable under Sections 377, 376(2)(n), 323, 504 and 506 of the Indian Penal Code and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. The Applicant came to be arrested on 21/07/2021 and he is in custody since then.

3. The application for bail filed by the Applicant has been dismissed by the learned Sessions Judge mainly on the basis of the First Information Report lodged by the victim. Upon perusal of the Medico Legal Examination Report of the victim and the statements of the witnesses the learned Judge observed that the Applicant had repeated sexual relation and unnatural intercourse with the victim under promise of marriage. The learned Judge rejected the application on the ground that the offence is of serious nature and that the investigation is still in progress.

4. Heard Mr. Zaid Qureshi, learned counsel for the Applicant , Ms V. Shinde, learned APP for Respondent -State and Ms Manisha Devkar, learned counsel for Respondent No.2. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The medical records do not prima facie indicate that the Applicant had committed unnatural offence punishable under Section 377 of the IPC. Nevertheless, the Applicant as well as the victim, who were in romantic relationship, have indulged in sexual activity. The victim being below 18 years of age, such physical /sexual relationship constitutes statutory rape. As a consequence thereof the Applicant, who is himself 19 years of age gets the status of an accused and he is detained in custody since 21/07/2021.

6. The investigation has been completed and the charge sheet has been filed. Considering the large pendency, the trial is not likely to commence in immediate future. There can be no gainsaying that the prolonged incarceration will jeopardise educational attainment and is likely to have devastating effect on physical and mental well being of the Applicant. Suffice it to say that the object of the POCSO Act is

certainly not to punish an adolescent in love and turn him into a hardened criminal.

7. Considering the above facts and circumstances, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Sessions Case No.704 of 2021 pending on the file of learned Additional Sessions Judge, Pune, is ordered to be released on bail on furnishing PR bonds in the sum of Rs.20,000/- with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station once in two months between 10.00 a.m. to 2.00 p.m. till the time charge is framed;
- (iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and /or change of residence or mobile details, if any, from time to time;
- (iv) The Applicant shall not tamper with the

evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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