

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.797 OF 2021

Ajay Datta Thombre

Applicant

versus

The State of Maharashtra

Respondent

Dr.U.P.Warunjikar, Advocate for applicant.

Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th October 2022

PC :

1. This is an application for bail. The applicant is arrested in connection with C.R No.371 of 2019 registered with Pimpri Police Station for offences under Sections 376, 376(2)(j), 376(2)(1), 506 of Indian Penal Code. The applicant was arrested on 18th March 2019.

2. The FIR was lodged by father of victim. Thereafter the statement of victim was recorded on 15th March 2019. It was alleged that accused used to enter house when she was alone and subject her to sexual intercourse. The age of victim was around 23 years at the time of lodging the FIR. She was major at the time of alleged incident. On completing investigating charge sheet was filed. The evidence of victim was recorded. It is pointed out that victim has expired after her evidence was recorded.

3. The applicant is in custody for a period of about 3½ years. Learned counsel for applicant has placed on record deposition of victim girl. The evidence indicate that the victim had waived her

hand to the accused while recording of evidence on video conferencing had began in Trial Court. She was in love with the accused. In the examination-in-chief she did not depose that she was subjected to forceful sexual intercourse by accused. She was cross-examined by learned APP sine she did not support prosecution case. She was also cross-examined by defense after cross-examination by prosecution. The victim confirmed that she was in love with accused. There was physical relationship between the accused and victim by consent.

4. Thus, it is apparent that victim was major. The victim and accused were in consensual relationship. Evidence of victim is recorded, which does not support prosecution case. The applicant is in custody for 3½ years. Hence, bail can be granted to applicant

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with C.R No. 371 of 2019 registered with Pimpri Police Station, on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for eight weeks in lieu of sureties;
- (iv) The applicant shall report concerned police station once in a month on first Saturday of month between 11 am and 1 pm till further orders.

(PRAKASH D. NAIK, J.)