

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2747 OF 2021

Yogesh Tanaji Sonawane

..Applicant

V/s.

The State of Maharashtra & Anr.

..Respondents

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Mr. M.N. Sandhyanshiv for the Applicant.

Mr. Y.Y. Dabke, APP for the Respondent/State.

Mr. Sudip Mallick i/b Chetan Damre for Respondent No.2.

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CORAM : C.V. BHADANG, J.

DATE : 3 MARCH 2022

P.C.

1. This is an application for bail. The Applicant has been chargesheeted for the offence punishable under Section 376, 376(2)(n) of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 arising out of Crime No. 246 of 2020 registered with Killa Police Station, Malegaon Dist. Nashik.

2. The aforesaid offence was initially registered under Section 363 of IPC against unknown persons on the basis of a complaint dated 27.07.2020 lodged by the father of the victim girl. According to the informant, his daughter, who was then aged about 14 years had gone missing at about 2 a.m. on 23.07.2020.

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It appears that on 27.07.2020, the police called the informant at Killa Police Station, Malegaon where the Applicant and the victim were brought by the police and the victim has returned to her parents. At the same time, the father of the victim lodged the complaint, on the basis of which, the offence is registered and after investigation a chargesheet is filed. The Applicant was arrested on 27.07.2020 and is in custody since then.

3. I have heard the learned counsel for the parties. Perused record.

4. The date of birth of the victim as per school leaving certificate and Aadhar Card is 06.03.2007. Thus, the victim had completed 13 years of age on the date of incident. The statement of the victim was recorded before the Magistrate in which she has stated that the Applicant was acquainted with her and they had decided to elope together as they were planning to marry. She, therefore, claimed that in the night on 23.07.2020, when her father had gone for fishing and all other members of the family were asleep, she called Applicant and both of them eloped, after which she was taken by the Applicant to his house, where they had sexual intercourse.

5. It is true that looking to the age of the victim, consent may not be material. However, prima facie it appears that there was no element of compulsion or coercion exercised by the Applicant

while taking the victim with him. In this case, the investigation is complete and the chargesheet is filed and no purpose would be served by detaining the Applicant behind bar.

6. In the result, the following order is passed:

**ORDER**

i) The Applicant **Yogesh Tanaji Sonawane** be released on bail in Crime No. 246 of 2020 registered with Killa Police Station, Malegaon Dist. Nashik on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Special Judge, during the course of trial, unless exempted.

iii) The Applicant shall not directly or indirectly make any attempt to contact the victim or any other prosecution witnesses.

iv) Bail bonds to be furnished before the learned Special Judge.

v) It is made clear that the observations herein are essentially of a prima facie nature and the learned Special Judge shall not be influenced by the same at the trial.

vi) Criminal bail application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)