

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

BAIL APPLICATION NO.2728 OF 2021

Nitin Sandipan Somwanshi

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Aniket U. Nikam with Mr. Aadesh Satpute i/b. Mr. Amit Icham for the Applicant.

Ms Rutuja Ambekar, APP for Respondent No.1-State.

Ms Maya Mujumdar for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED :29th NOVEMBER, 2022.

P. C. :-

1. This is an application under Section 439 of Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Special (POCSO) Session Case No.210 of 2021 pending on the file of learned Additional Sessions Judge, Pune, for the offences punishable under Sections 305, 363 and 366-A of the Indian Penal Code and Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006.

2. Heard Mr. Aniket U. Nikam, learned counsel for the Applicant, Ms Rutuja Ambekar, learned APP for Respondent No.1-State

and Ms Maya Mujumdar, learned counsel for Respondent No.2. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The records prima facie indicate that the victim, who was 17 years of age had eloped from the house on 25/05/2020 and subsequently married the Applicant. The Applicant and the victim were residing in a rented room. The victim committed suicide on 19/01/2021. Father of the victim girl lodged the FIR alleging that the Applicant had abducted his minor daughter and had married her though she was below 18 years of age. The Complainant had also accused the Applicant of abetting suicide of the victim, who was below 18 years of age. Pursuant to the FIR lodged by the father of the victim, Crime No.48 of 2021 came to be registered at Hinjewadi Police Station, District-Pune, for the aforesaid offences.

4. In the course of the investigation statement of the neighbours came to be recorded. A perusal of the said statements prima facie reveals that at times there used to be altercations and arguments between the deceased and the Applicant. One of the witnesses, has in fact stated that the Applicant and the deceased were

residing happily and that he had not noticed anything amiss. The records prima facie indicate that the parents of the deceased had severed ties after she was eloped from her house. The deceased was in contact with her younger sister. Her sister has stated that the Applicant did not allow her to pursue her studies. Her statement prima facie indicates that the deceased was upset with her mother-in-law as she was ignoring her and not talking to her and for which reason the deceased had gone into depression.

5. Considering the material in its entirety, in my considered view prima facie no case is made out to prove essential ingredient of Section 107 of the IPC. Consequently, there is no prima facie material to show that the Applicant had abetted the suicide. The Applicant is in custody since 19/01/2021.

6. Considering the above facts and circumstances, in my considered view this is not a fit case to detain the Applicant any further. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Special (POCSO) Session Case No.210 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.25,000/- with one or two sureties in the like amount'

(ii) The Applicant shall report to the concerned Investigating Officer of Hinjwadi police station on the first day of every month between 11.00 to 2.00 p.m. till framing of the charge.

(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.

7. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)