

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

BAIL APPLICATION NO. 2782 OF 2022

Ashok Dhondiram Gaikwad	...Applicant
Versus	
State Of Maharashtra and Anr.	...Respondents

Mr. Amit Icham i/b Adv. Shubham Gharbudave a/w Adv. Akshay Tilve for applicant.
Mr. N.B. Patil, APP for State.
Ms. Mallika Sharma for respondent no. 2.

CORAM: M. S. KARNIK, J
DATED: DECEMBER 16, 2022

PC:-

1. Heard learned counsel for the applicant.
2. This is an application for bail filed by the applicant - Ashok Dhondiram Gaikwad, in connection with C.R. No. 68 of 2020, registered with Kasarwadavali Police Station, Thane, for the offence punishable under sections 376 of the Indian Penal Code, 1860 and under sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.
3. The applicant is 62 years of age and is a step-grandfather of the victim. The victim in the First Information Report dated 15/03/2020 alleged that on 14/03/2020 when she was waiting near the school gate, one rickshaw driver induced her to go with him and established forcible physical relations with her.

Her statement thereafter reveals that while at the hospital when the victim was undergoing medical examination, she told her mother that for last 2 years, the applicant (step-grandfather of the victim) had committed forcible sexual intercourse with her. On record is the statement of the victim's sister who is 13 years age and who says that 2 years prior to the statement, she had seen the applicant committing the offensive act with the victim.

4. Learned counsel for the applicant submitted that the relations between the mother of the victim and the applicant are strained. The medical evidence does not support the prosecution. The counsel appointed on behalf of the victim opposed the application. Learned APP has supported the counsel for the victim.

5. I find that the medical evidence does not support the prosecution. The relations between the applicant and his daughter in law are strained. There is a delay in reporting the incident. Taking an overall view of the matter, in my opinion, as the charge-sheet has already been filed and the investigation is complete and the applicant who is 62 years of age is in custody for more than 2 years and 9 months, with no

possibilities of trial commencing, the applicant can be released on bail under certain conditions. Hence the following order.

ORDER

- (a)** The applicant - Ashok Dhondiram Gaikwad, in connection with C.R. No. 68 of 2020, registered with Kasarwadavali Police Station, shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties of the like amount.
- (b)** The applicant shall not reside in the vicinity where the victim is residing.
- (c)** The applicant shall report to the concerned police station once in a month i.e. on first Monday of every month between 10.00 a.m. and 12.00 noon and thereafter as and when called.
- (d)** On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.
- (e)** The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

6. I express my gratitude for the able assistance rendered by the advocate - Ms. Mallika Sharma representing the complainant.

7. The application is disposed of.

(M. S. KARNIK, J.)