

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

CRIMINAL BAIL APPLICATION NO.4277 OF 2021

Gaurav Uday Tirodkar

...Applicant

Vs.

The State of Maharashtra & Anr.

... Respondents

Mr.A.S. Khandeparkar a/w Mr.Rajdeep D. Gude, Ms.Apoorva A. Khandeparkar, Mr.Rohit P. Mahadik, Mr.Rushikesh G. Bhagat, Mr.Prerak A. Sharka i/b Khandeparkar and Associates for the Applicant.

Ms.M.R. Tidke, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 28 MARCH 2022

P.C.

. By this Application, the Applicant is seeking bail in Crime No.220 of 2021 registered with Kankavli Police Station, under Section 376(1), 376(2)(n), 376(3) and 109 of the Indian Penal Code and Section 4,6 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2. The aforesaid crime is registered on the basis of the complaint lodged by Rasika Avinash Parab mother of the victim-girl. The date of birth of the victim is 1 March 2006. The victim got acquainted with the Applicant through social media and both of them started meeting each other. The victim claims that there

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was a love affair between them and she wanted to marry the Applicant. It is the material allegation that from 30 June 2020 to 16 February 2021 the Applicant had forcible sexual intercourse with her on four occasions. However, the complaint was lodged on 10 June 2021 when the mother of the victim girl noticed that the victim was speaking to somebody and was weeping. On enquiry victim disclosed the said incident to her mother.

3. The Applicant was arrested on 11 June 2021 and he is in custody since then. The investigation is complete and the charge-sheet is filed.

4. The learned counsel for the Applicant submitted that the FIR is belated for which no explanation is forthcoming. Secondly, the medical report does not make out any offence of an aggravated sexual assault as defined under section 5 of the POCSO Act.

5. The learned Additional Public Prosecutor has pointed out the injuries as mentioned in paragraph 18 of the medical report.

6. I have considered the circumstances and the submissions made. *Prima facie* it can be seen that although the incident of alleged sexual abuse was there on four occasions

during the period from 30 June 2020 to 16 February 2021, the FIR came to be lodged on 10 June 2021. There is no explanation for the delay.

7. The medical report although is suggestive of old traumas, the final opinion as recorded in Clause 25 is that there was 'sexual violence without penetration'.

8. Thus it can be seen that offence may fall under Section 7 of the POCSO Act which is sexual assault without penetration which invites a maximum sentence of 5 years under Section 8 of the said Act.

9. The investigation in this case is complete and the charge-sheet is filed. I do not find any reason to detain the Applicant behind bars pending trial.

10. Hence the following order.

ORDER

(i) The applicant-Gaurav Uday Tirotkar, be released on bail, on executing a P.R. 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 trial, unless exempted.

(iii) The applicant shall not make any attempt directly or indirectly to contact the victim and shall not otherwise tamper with the prosecution evidence/witnesses.

(iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(v) The bail bonds to be furnished before the learned Special Judge.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.