

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

CRIMINAL BAIL APPLICATION NO. 4484 OF 2021

Salman Usman Pathan

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. R. D. Suryawanshi, for the Applicant.

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

P.N. 2264 B. T. Joshi, Khed Police Station.

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**CORAM : C.V. BHADANG, J.
DATE : 21 MARCH 2022**

P.C.

. By this Application, the Applicant, is seeking release on bail, in Crime No.408/2019 of Police Station Khed, District Pune, under Section 376(2)(f), 376(2)(n), 323 and 504 r/w. 34 of IPC.

2. The aforesaid crime is registered on the basis of the complaint dated 25 September 2019 lodged by the prosecutrix, who was 19 years of age, her date of birth being 24 November 2000. She was studying in 12th Standard. The Applicant happens to be her cousin brother.

3. According to the prosecutrix, somewhere in September 2019, she had accompanied the Applicant to Ratnagiri riksha stand where the father of the Applicant was present and all three of them went to Panvel by railway and thereafter to Pune where they stayed at the house of the maternal aunt of the Applicant. According to the prosecutrix, the maternal aunt was informed that the Applicant and the informant were going to marry each other. It is the material allegation that in the night on 15 September 2019 and 16 September 2019, the Applicant had sexually abused the victim at the house of his maternal aunt. The FIR came to be registered on 25 September 2019. In this case, after investigation, a chargesheet is filed.

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

5. *Prima facie*, it appears that the victim who had attained the age of 19 years and age of consent, had accompanied the Applicant and his father to Pune where she stayed alongwith them at the house of the aunt of the Applicant where she was allegedly sexually abused. There is a serious doubt whether there is any element of coercion or compulsion which was exercised by the Applicant. Quite to the contrary, the statement of the informant shows an element of the relationship being consensual in nature. The victim has returned to her parents. The

investigation is complete and the chargesheet is filed. The Applicant is arrested on 21 January 2020 and since then is in custody.

6. In the circumstances, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Salman Usman Pathan, be released on bail in Crime No.408/2019 of Police Station Khed, District Pune, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.
- (iv) The Applicant shall not directly or indirectly make any attempt to contact the informant or any other prosecution witnesses and shall not otherwise tamper with the prosecution evidence / witnesses.
- (v) Bail bonds to be furnished before the learned Sessions Judge.

(C.V. BHADANG, J.)

This order is corrected as per speaking to the minutes of the order dated 23/3/2022.