

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

CRIMINAL BAIL APPLICATION NO. 4494 OF 2021

Govind Ramdas Shendare	...Applicant
Versus	
State Of Maharashtra And Anr	...Respondents

....

Mr. Narayan G. Rokade, Advocate for the Applicant.
Mr. Maitreya G. Shukla Advocate for Respondent No.2.
Mr. N. B. Patil, APP for the Respondent – State.

....

Digitally signed
by
DNYANESHWAR
ASHOK ETHAPE
Date: 2022.10.21
21:28:48 +0530

CORAM : PRAKASH D. NAIK, J.
DATE : 21st OCTOBER, 2022

PER COURT:

1. The applicant is arrested on 29.03.2021 in connection with C.R. No. 100 of 2021 registered with Jaykheda Police Station, District. Nashik for offences punishable under Sections 363, 376, 366-A of the Indian Penal Code and Section 4(1), 8 and 17 of the Protection of Children from Sexual Offences Act, 2012.
2. The FIR was registered by father of the victim alleging that the daughter of the complainant (victim) was missing from the house. The FIR was lodged against unknown person under Section 363 of IPC. The age of victim was 16 years and 5 months. Thereafter, the victim was traced and

her statement was recorded under Section 161 of Cr.P.C. on 29.03.2021 and subsequent statement under Section 164 of Cr.P.C. on 01.04.2021. In the first statement on 29.03.2021 the victim has stated that the accused used to send messages to her. The accused is her relative. He expressed love for her. He convinced her to elope with him. The complainant was refusing to do so. The accused had stated that he would marry her. On 06.03.2021 when the victim was on the way to college the accused approached her to come with him. She was taken to another place, where they stayed. The accused promised to marry. On several occasions, there was physical relationship between them. Her supplementary statement was recorded on 05.04.2021. Statement under Section 164 of Cr.P.C. was recorded. She stated that the accused took her to another village, where there was physical relationship. They stayed as husband and wife. They purchased household articles. The accused subjected to her physical relationship without her consent.

3. Learned advocate for the applicant submitted that there is no cogent evidence to prove the age of the victim. The prosecution is relying on the birth certificate which indicates that her date of birth is on 13.09.2004. The application for issuance of certificate was made on

05.04.2021 which creates doubt about the genuineness of the certificate. The relationship was consensual. The applicant is in custody for substantial period of time.

4. Learned APP and learned advocate for the complainant submitted that the relationship was not consensual. The victim was minor. The victim was forced into relationship with the accused. The applicant is the married person having children.

5. From the contents of statements of the victim recorded under Sections 161 and 164 of Cr.P.C. it can be seen that the victim had accompanied the applicant on his motorcycle. They went to another village. They stayed together for 23 days. There was physical relationship between them. They stayed as husband and wife. The victim in her statement has stated that the applicant was her relative. Both reside in same village. Apparently relationship was consensual. The victim has not alleged that applicant has suppressed his marriage.

6. Considering the aforesaid circumstances, bail can be granted to the applicant.

ORDER

(i) Criminal Bail Application No. 4494 of 2021 is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R. No. 100 of 2021 registered with Jaykheda Police station Taluka Satana District. Nashik on executing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.20,000/- for a period of eight weeks in lieu of surety.
- (iv) The applicant shall stay out area of Deolane Shivar, till conclusion of trial.
- (v) The applicant shall not approach the complainant/victim and shall not threaten the victim in any manner.
- (vi) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.
- (vii) The applicant shall furnish the details of his residence after he is released on bail to the Investigating Officer.
- (viii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)