

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**BAIL APPLICATION NO.2071 OF 2022
WITH APPLN/333/2023 IN BA/2071/2022**

MAHESH SAMBHAJI BARDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Narwade Narayan B.

APP for Respondent/State : Mr. S.P. Deshmukh

Advocate for Assist to PP : Mr. D.R. Jayabhar

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 23, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel assisting the learned APP.
2. The applicant is a maternal brother of the victim. Two similar crimes are to his discredit. However, the statement of the victim under Section 164 of Criminal Procedure Code is totally against what the prosecution case is. She made no complaint against the applicant except going with him voluntarily. The said statement is recorded after about five months of the incident. The reason best known to the investigation officer, why he/she did not follow the mandate of law recording the statement of the victim immediately under the POCSO Act.

(2)

3. Be that as it may, though the applicant has no good past but the Court has to examine the evidence and material on record. The material contradictory statement of the victim is available on record. She did not support the prosecution except going with the applicant. It is a good ground for bail. However to prevent the repetition, certain conditions may be imposed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Mahesh Sambhaji Barde, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.477 of 2022, registered at Pathardi Police Station, District Ahmednagar for the offence punishable under Section 363, 376 (2) (i) (j) (n), 366(A), 506 of the Indian Penal Code and Section 3 and 4 of Protection of Children from Sexual Offences Act, 2012, on the conditions that;

- (a) The applicant shall attend the concerned police station on every Monday, Wednesday and Friday between 02.00 p.m. to 04.00 p.m., till conclusion of the trial.

- (b) The applicant shall not contact the victim and her parents till conclusion of the trial.

(3)

(c) The applicant shall not tamper with the prosecution evidence.

(iii) Criminal Application No.333 of 2023 stands disposed of.

(S.G. MEHARE, J.)

Mujaheed//