

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

**CRIMINAL APPLICATION NO.1024 OF 2023 IN
CRIMINAL APPEAL NO.381 OF 2022**

Lakhan s/o Mansab Kadam

... **APPLICANT**

VERSUS

The State of Maharashtra & anr.

... **RESPONDENTS**

.....

Mr. S.G. Bobde, Advocate for applicant

Mr. K.N. Lokhande, A.P.P. for respondent No.1.

Mr. D.A. Bide, Advocate for respondent No.2.

.....

CORAM : R.G. AVACHAT, J.

DATE : 3rd APRIL, 2023

PER COURT :

Heard. The learned counsel Mr. Bide representing the respondent No.2 victim submits that, the earlier application moved by the applicant has been rejected in the recent past i.e. in November 2022. According to him, the consent of the victim was immaterial when she was below 18 years of age. He informs that, the Court then was not inclined to grant the applicant relief.

2. At the material time the applicant was 20 years of age. The victim was little over 17 years of age. It was a

consensual relationship. Both of them had eloped and they stayed together for two months at Waluj.

3. The family members of the victim had lodged missing person's report and during enquiry thereof, the applicant and the victim were found residing at Waluj. It is only on the intervention of the relations of the victim the couple was separated. Both of them were, therefore, brought to the police station. After both of them were brought to the police station, the victim refused to get medically screened. Six days thereafter, the statement of the victim was recorded. Thereafter she underwent medical examination.

4. Learned counsel for the victim also submits that the applicant's brother had tried to influence the parents of the victim. If granted bail, the applicant may again trouble the victim.

5. Since it was a consensual relationship and the victim was of the age of understanding i.e. little over 17 years of age, and the fact that the applicant is in jail over little over 15 months, and it is also informed that the applicant was in jail pending the enquiry, investigation and trial for some days and then was granted bail, as such, the applicant is behind the bars for little over one and a half year. The appeal being of the year

2022, is not likely to come up for hearing in near future in view of some other old appeals to have their turn first. Therefore, the Court is inclined to allow the application. Hence the order :

ORDER

(i) The application is allowed.

(ii) Pending the appeal, the execution of substantive sentences of imprisonment imposed upon the applicant by learned Special Judge (POCSO), Aurangabad by judgment and order dated 22/4/2022 in Special Case (POCSO) No.220/2020 to stand suspended and the applicant be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iii) The applicant shall not try to contact the victim anyway. If such incident is brought to the notice of this Court, the bail granted to him is liable to be cancelled.

(R.G. AVACHAT, J.)

fmp/-