

(1)

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

BAIL APPLICATION NO.1729 OF 2022

**SOMNATH RAJENDRA PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. M. A. Dond, Advocate for Applicant;
Mr. K.S. Patil, A.P.P. for respondent No.1/State;
Ms. Asha Gore, Advocate (appointed) for Respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 2nd JANUARY, 2023

PC.

1. Heard the learned counsel for the applicant, learned A.P.P. for respondent no.1 and Mrs. Gore, learned counsel for respondent No.2.

2. By this application under Section 439 of the Code of Criminal Procedure, the applicant seeks bail in C.R. No.I-09/2022, registered with Police Station, Rahata, District Ahmednagar, for offence punishable under Sections 363, 376 (2)(n)(j), 366-A, 341, 342, 323, 504 and 506 of the Indian Penal Code and Sections 4, 5 (1), 6, 16 and 17 of the Protection of Children from Sexual Offences Act, 2012 (now Special Case No.20/2022, pending before the learned Additional Sessions Judge, Kopergaon).

(2)

3. The earlier bail application of the applicant has been decided on merit. However, the applicant is seeking bail producing some photographs which were allegedly not referred to while deciding the earlier bail application. Referring to these photographs, the learned counsel for the applicant tried to argue that her photographs if read indicates that she never resisted. He has also argued that there was consensual relationship. The applicant is a young boy of 18 years. He is languishing behind bar for about one year. Hence, he may be granted bail.

4. Learned A.P.P. would submit that the statement of the victim is consistent that she was threatened and was not allowed to come out of the room where she was residing with the applicant, would prevail over the photographs. Her statement is corroborated by the landlord where the victim and the present applicant were residing. He has also specifically stated that the applicant was not allowing the victim to come out of the room; hence, his wife had no occasion to talk to her.

5. The earlier order was passed after considering the entire material placed before the Court. However, the statement of the victim is consistent that she was threatened and forcibly taken away from the custody of her guardian. Her statement that the applicant did not allow her to go out of the room is corroborated by the

(3)

statement of the landlord. There is direct evidence against the applicant. Hence, it cannot be accepted that the photographs may assist the applicant to claim the change in circumstance. The chargesheet has been filed. The trial may be likely to be opened in near future. Considering the gravity of the offence and direct evidence against the applicant of applying the force, the Court does not find reason to allow the bail application. Hence, the application stands dismissed.

6. The Secretary, High Court Legal Services Sub-Committee Aurangabad, do pay the fees to the learned counsel appointed for the respondent No.2/victim, as per the schedule.

(S. G. MEHARE, J.)

amj