

Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**CRIMINAL APPLICATION BAIL NO. 15 OF 2023.**

SAGAR SAMANT THROUGH HIS NEXT  
FRIEND SAMBHAJI PEDNEKAR  
PRESENTLY LODGE IN CENTRAL JAIL .... Applicant.  
COLVALE  
VERSUS  
STATE OF GOA THROUGH PUBLIC  
PROSECUTOR AND 2 ORS. .... Respondents.

Mr. D. Dhond, Mr. K. Raikar and Mr. M. Usgaonkar, Advocate for the applicant.

Mr. N. Vaze, Addl. Public Prosecutor for the respondent nos.1 and 2.

Mr. S. Sardesai, Advocate for respondent no.3

**CORAM: PRAKASH D NAIK, J**

**DATED: 3<sup>rd</sup> October 2023**

**P.C.**

1. The applicant is seeking bail in Crime No. 14/2022 registered with Women Police Station Panaji Goa on 1.12.2022 for offence under Section 8(2) of Goa Children's Act, 2003 and Section 4,6,8, 10,12 and 14 of Prevention of Children from Sexual Offences Act, 2012.
2. The case of the prosecution is that accused nos.1 and 2 sexually abused the minor victim boy on several occasions. The statement of victim boy was recorded on 1.12.2022. He referred to sexual abuses by accused nos. 1 and 2. Statement of victim boy was recorded under Section 164 of Cr.P.C. on 14.12.2022. He stated that in September

2021, one person took him and Soham to forest. They were sexually abused. Name of said person was Rohit. Supplementary statement of victim boy was allegedly recorded on 22.12.2022. The victim boy referred to third person Shashikant @ Soham. He stated that person named Sagar @ Rohit took him and Soham to forest area. They were sexually abused by Sagar @ Rohit. Applicant was arrested on 10.1.2023. On completing investigation chargesheet is filed.

3. Learned Advocate for the applicant submitted that applicant has been falsely implicated in this case. There is no evidence to establish that the applicant is one Rohit who has been referred to by the victim in his statement under Section 164 of Cr.P.C. and supplementary statement. The supplementary statement was recorded to falsely implicate applicant. There is no statement of any witness on record which shows that the applicant is also known as Rohit. Test Identification Parade was not conducted. The applicant is government servant. He is in custody since last 10 months. He has no criminal antecedents.

4. Learned Addl. Public Prosecutor and learned Advocate for respondent no.3 submitted that although the involvement of the applicant is not disclosed in the first statement, applicant is shown involved on the basis of supplementary statement and statement recorded under Section 164 of Cr.P.C.

5. Perused chargesheet. Statement of the victim boy was recorded under Section 161 of Cr.P.C. on 1.12.2022. He has referred to involvement of two persons who had allegedly sexually abused him. Statement under Section 164 of Cr.P.C. recorded on 14.12.2022 ,victim stated that in September 2021 he was sexually abused by person named Rohit. The alleged incident had occurred one year prior to the said statement. There is no evidence to show that applicant's name is Rohit. The applicant had preferred application for bail before Children's Court and denied his identity as Rohit. The prosecution is relaying on supplementary statement of victim boy purportedly recorded on 22.12.2022. The figure 22 regarding date of recording statement is apparently changed by handwriting. In the said statement the victim boy had made improvement that person named Sagar @ Rohit had sexually abused him. There is no statement of any witness on record that applicant is known as Sagar @ Rohit. Applicant was not known to the victim boy. To establish identity of the applicant as the person involved in crime, the investigation agency did not conduct Test Identification Parade. Arrest panchanama of the applicant dated 10.1.2023 mentions that accused disclosed his name as Sagar @ Rohit Samant. Such confession has no legal sanctity and the identity Sagar @ Rohit was introduced subsequently which creates doubt about involvement of applicant in the crime.

6. Considering the aforesaid aspects case for grant of bail is made out.

**ORDER**

- a. Criminal Application (Bail) No. 15/2023 is allowed.
- b. The applicant is directed to be released on bail in connection with Crime No. 14/2022 registered with Women Police Station Panaji Goa on executing PR bond of Rs.20,000/- with one surety in the like amount to the satisfaction of the trial Court.
- c. The applicant shall not enter within the vicinity of the residence of the victim.
- d. The applicant shall report to Women Police Station, Panaji once in three months on first Saturday between 11.00 a.m. and 1.00 pm, till the completion of trial.
- e. The applicant shall not establish contact with the victim.
- f. The applicant shall regularly attend the trial Court on the date of hearing of case unless exempted by the trial Court for some reason.
- g. The applicant shall not indulge in any activity that would amount to tampering with evidence and influencing witnesses.
- h. The Criminal Application (Bail) No. 15 of 2023 is disposed of.

**PRAKASH D. NAIK, J.**

VINITA VIKAS NAIK Digitally signed by VINITA VIKAS NAIK  
Date: 2023.10.03 19:22:52 +05'30'