



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

BAIL APPLICATION NO. 2648 OF 2023

SAGAR NAGNATH TUKMALI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Vilasini Balasubramaniam i/b Adv. Jaydeep Mane for
the Applicant.

Adv. A.V. Konde-Deshmukh a/w Adv. Rohin r. Chauhan for
Respondent No.2.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 12, 2023

P.C. :

1. Heard learned counsel for the applicant, learned
counsel for respondent No.2 and learned APP for the State.

2. This is an application for bail in respect of the offence
punishable under Sections 376, 376(2)(n), 376(3) of the
Indian Penal Code and Sections 4, 8, 12 of the Protection of
Children from Sexual Offences Act, 2012 (POCSO Act)
registered on 05/06/2023 vide C.R. No.376 of 2023 with
MIDC Police Station, Solapur.

3. The applicant was arrested on 06/06/2023. At the relevant time, the applicant was 21 years of age. So far as the age of the victim is concerned, as per the school leaving certificate, it is 16 years and 2 months at the relevant time. While recording the statement of the victim under Section 164 of the Cr.P.C. her age is reflected as 17 years and as per the statement recorded under Section 161 of the Cr.P.C. her age is reflected as 15 years.

4. The application is opposed by the learned APP and learned counsel for respondent No.2. It is submitted that the victim is a minor and her consent is immaterial. It is further submitted that she was in the second month of pregnancy when it was realised that the applicant committed the aforesaid offence and it is, therefore, prayed that the applicant should not be enlarged on bail.

5. I have gone through the statement recorded under Section 164 of the Cr.P.C. of the victim. She has stated that there was a love relationship between the applicant and the victim. Though it is true that the victim is a minor and her consent is immaterial, considering the facts and

circumstances in the present case and the age of the applicant coupled with the fact that the investigation is complete and the charge sheet is filed, I am inclined to enlarge the applicant on bail. Having regard to the material on record, *prima facie*, the victim appears to be of the age of understanding. No criminal antecedents are reported against the applicant. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sagar Nagnath Tukmali in connection with C.R. No. 376 of 2023 registered with MIDC Police Station shall be released on bail on his furnishing P.R. Bond of Rs.10,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 10,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall

furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not contact, threaten or intimidate the victim.

(g) The applicant shall not enter the area of Neelam Nagar, District- Solapur, after being released on bail, till further orders of the trial Court.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Advocate A.V. Konde-Deshmukh, who appeared on behalf of respondent No.2 in this proceeding. His engagement may be regularized by the Maharashtra State Legal Services Authority if he is on the panel or else he may be paid fees/honorarium quantified at Rs.5000/-.

(M. S. KARNIK, J.)