

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

BAIL APPLICATION NO.4450/2021

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UMESH JALINDAR GHADAGE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Vilasini Balasubramanian a/w. Adv. Jaydeep Mane for
the applicant.

Ms. A. A. Takalkar, APP for State.

Adv. Sushan Mhatre for the complainant.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 15, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in respect of First
Information Report (FIR) No.473/2021 registered with the
Kurduwadi Police Station, Solapur Rural, under Sections 363,
366, 376(2)(n) of the Indian Penal Code, 1860 (hereafter
“the IPC”, for short) read with Sections 4, 8, 12 of the
Protection of Children from Sexual Offences Act, 2012
(hereafter ‘POCSO Act’ for short).

3. The victim at the relevant time was 16 years of age.

The applicant was 22 years of age. The applicant was married and has two children. In the statement of the victim recorded on September 29, 2021 under Section 161 of the Code of Criminal Procedure (hereafter 'Cr.P.C.' for short), she has stated that she was aware that the applicant is married. The applicant is known to the victim. She further stated that the applicant's wife was not residing with him and therefore, the applicant had come to her parents and proposed marriage with the victim. Her parents did not agree. It is then stated that the applicant and the victim were in regular touch with each other and for a period from September 19, 2021 to September 28, 2021, the applicant, the victim and the children of the applicant stayed together at Pune in a flat which the applicant hired on rent. A missing complaint was lodged by the father of the victim. The applicant and the victim themselves went to the police station on September 28, 2021, on which date the applicant was surrendered.

4. In the statement under Section 161 of the Cr.P.C. recorded on September 29, 2021, the victim stated that applicant did not have any physical relations with her during

this period. It is in the supplementary statement recorded on October 1, 2021 that the victim narrated about the physical relations that the applicant had against her wish.

5. From the reading of the statement, it is obvious that the relationship between the applicant and the victim was consensual in nature. The applicant at the relevant time was 16 years and 3 months old. Looking at the age of the victim, her consent may not be material. Nonetheless, taking an over all view of the matter, since the applicant is in custody from September 28, 2021, for a period of one year and four months, with the possibility of the trial concluding any time soon appearing to be remote, the applicant can be released on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. Hence the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant in connection with FIR No.473/2021 registered with the Kurduwadi Police Station, Solapur Rural, shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.

(c) The applicant be released on provisional cash bail of Rs.15,000/- for a period of six weeks from today.

(d) The applicant shall report to the Investigating Officer of the concerned police station as and when called.

(e) 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.

(f) 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.

(g) The applicant shall not enter the village where the victim is residing, neither he shall establish any contact with the victim.

6. The application is disposed of.

(M. S. KARNIK, J.)