

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

CRIMINAL BAIL APPLICATION NO. 66 OF 2023

Sunil Dagadu Chavan

...Applicant

Versus

The State Of Maharashtra And Anr.

...Respondents

....

Mr. Shripad P. Hushing i/by Adv. B.A. Aloor, Advocate for the Applicant.

Ms. Pravanda Raut, Advocate for Respondent No.2.

Mrs. Anamika Malhotra, APP for the Respondent – State.

PSI, J.I. Patil, Narayangaon Police Station, Pune Rural.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th JULY, 2023.

PER COURT:

1. This is an application for bail during the pendency of trial in connection with C.R. No.402 of 2018 registered with Narayangaon Police Station. The First Information Report (for short 'FIR') was registered on 20th November, 2018 by the father of victim. It was alleged that the victim is daughter of the complainant aged around 13 years 7 months. She is the student of 9th standard. On 19th November, 2018, the victim girl was dropped in the school at about 8:30 a.m. by cousin of the victim. She did not return home till 6:00 p.m. Search was carried out to trace the victim. Enquiry was made with her friend. However, it was revealed that the victim did not go to school. The complainant and others went to various places.

SUNNY
ANKUSHRAO
THOTE
Digitally signed
by SUNNY
ANKUSHRAO
THOTE
Date:
2023.07.26
18:03:14
+0530

However, the victim could not be traced. Hence, the FIR was lodged with the Police under Section 363 of Indian Penal Code (for short 'IPC').

2. On 26th November, 2018, the victim was traced with the Accused at Kolhapur. Her statement was recorded on 27th November, 2018. In the statement, she stated that, about seven months ago she had called her cousin. However, she dialed a wrong number and by mistake the call was made to another persons. Thereafter, she made calls on the said number and she got acquainted with the Applicant. They developed friendship. They fell in love. On 19th November, 2018, she left with the Applicant/Accused and both of them went to Kolhapur via Pune. They stayed at the lodge. The Applicant told her that hey are going to marry and had sexual relationship with her on two to three occasion. Thereafter, they stayed at another premises and she was subjected to sexual intercourse by the Accused. They went to temple and performed marriage. The victim was medically examined. Statement of witnesses were recorded and cahрге-sheet was filed. The Applicant was arrested on 27th November, 2018.

3. The previous application for bail preferred by the Applicant was rejected vide order dated 10th February, 2020.

4. Learned Advocate for the Applicant submit that the Applicant is in custody from 27th November, 2018. There is no progress in the trial. Charge is not framed. From the contents of FIR, it can be seen that the victim was a consenting party. The medical evidence is silent about any injuries to support the charge of sexual assault.

5. Learned APP and Advocate for Respondent No.2 submitted that the victim was minor at the time of incident. The consent, if any, is immaterial. The offences is of serious nature. While providing report history during the medical examination of the victim, she has referred to sexual assault. The Applicant is argued for offences under Sections 363 and 376(i) of IPC as well as Sections 4, 8 and 12 of POCSO Act.

6. The FIR indicates that the victim and the Accused were acquainted with each other. The victim left the house and joined the Accused. They were found together. It is true that the victim was minor at the time of incident and the consent of the victim if any is immaterial.

7. Considering the fact that the Applicant is in custody for four and half years, bail can be granted on certain terms and conditions.

ORDER

- i. Criminal Bail Application No. 66 of 2023 is allowed;

- ii. The Applicant is directed to be released on bail in connection with 402 2018 registered with Narayangaon Police Station on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The Applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of six weeks in lieu of surety.
- iv. The Applicant shall not enter jurisdiction of Pune till the end of trial and he shall not approach the victim in any manner.
- v. Application stands disposed off.

(PRAKASH D. NAIK, J.)