

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.316 OF 2022

Sunil Ramdas Sonawane

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2023.11.01
10:12:13 +0530

Mr.Deepak K. Pradhan, for the Applicant.

Ms.P.N. Dabholkar, APP for the Respondent No.1 -State.

Ms.Megha Bajoria, for Respondent No.2.

Mr.R.H. Gadwe, PSI, Hill Line Police Station, Ulhasnagar,
District-Thane.

CORAM : G.A. SANAP, J.

DATE : 27th OCTOBER 2023

P.C:-

. Heard.

2. The Applicant-Accused has made this Application for bail under Section 439 of the Criminal Procedure Code ('Cr.P.C.' for short) in Crime No.I-190 of 2021, registered with Hill Line Police Station, Ulhasnagar, District-Thane, for the offences punishable under Sections 376, 376(2)(f), 376(2)(n), 506 of the

Indian Penal Code ('IPC' for short) and Section 4,6,8 and 12 of the Protection of Children From Sexual Offences Act, 2023 ('POCSO' for short).

3. The learned Advocate for the Applicant/Accused submitted that, considering the delay in lodging the report and the conduct of the victim not disclosing the sexual assault for a long time, the defence of consensual act may be available to the Accused. The learned Advocate submitted that, considering the nature of the evidence complied in the charge-sheet further incarceration of the accused is not warranted. The learned Advocate further submitted that, Accused is ready to abide by the conditions that may be imposed on him.

4. The learned APP submitted that, the delay has been properly explained. It is pointed out that, the victim was threatened by the Accused therefore, she was under tremendous pressure. The learned APP submitted that, the Accused took advantage of his dominant position and the fact that, the victim was a cornered by her family members, on account of her affair with another boy. The learned APP submitted that, the medical

examination report of the victim clearly indicates that, she was subjected to sexual assault.

5. The Accused is bother-in-law of the victim. It appears that, the mother of the victim and other family members had become aware of the affair of the victim with one boy and therefore, they had questioned the victim about the same. The record reveals that, even on this count the victim was assaulted by her mother and brother. It is seen that, the Accused saved the victim from the clutches of the family members and gained the sympathy of the victim. He carried the victim to his house. It is stated that, the Accused took the advantage of this precarious situation in which the victim was placed and sexually abused her. The Accused is husband of the elder sister of the victim. The victim is minor. It is apparent from the face of record that, the Accused is in a dominant position vis-a-vis the victim. The victim on the date of the incident was minor and therefore the submissions advanced by the learned Advocate with regard to the consensual sexual act cannot be sustained. The apprehension put

forth by the learned APP that, the Accused is likely to pressurize and threaten the victim is well founded.

6. In my view, no case is made out to enlarge the Accused on bail. As such Application is rejected.

(G.A. SANAP,J.)