



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

BAIL APPLICATION NO.312 OF 2023

ROHAN GAUTAM NIKALJE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR ..RESPONDENTS

Adv. V. V. Phatate for the Applicant.
Ms. Veera Shinde, APP for the State.
Adv. Meghna Goyalani for respondent no.2 (victim).

CORAM : M. S. KARNIK, J.

DATE : AUGUST 22, 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 the offence punishable under Sections 375, 376, 376(2)(j)(n), 354, 354(A)(D), 323, 504, 506 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012, is registered vide First Information Report (FIR) No.23/2022 with Bandgarden Police Station, Pune.
- 3.** The applicant was arrested on 5/2/2022. The age of the victim at the time of lodging of the FIR was more than

17 years. From the contents in the FIR and the statement under Section 164 of the Cr.P.C., it appears that the applicant and the victim were in consensual relationship. The victim being a minor, her consent is immaterial.

4. Learned APP as well as learned counsel for the respondent no.2 while opposing the application for bail contend that the applicant assaulted the victim. When she came home crying, her face was swollen. When asked by her parents she reported about the relationship and the act committed by the applicant which constitutes the offence under the aforesaid provisions.

5. The applicant is in custody for more than one year and the trial is not likely to conclude any time soon in the near future. The applicant is hardly 22 years age. Considering the nature of accusations by the victim who was over 17 years of age, I am inclined to allow the application.

6. Learned APP submitted that there are some criminal antecedents reported against the applicant. There is C.R.No.165/2017 registered against the applicant under Sections 324, 427, 506 read with 34 of the IPC, C.R.No.215/2018 is also registered against the applicant

under Sections 395, 143, 147, 148, 149, 452, 323, 504, 427 of the IPC read with Sections 135, 37 (1) (3) of the Bombay Police Act and another C.R.No.121/2019 is registered under Sections 324, 506, 143, 147, 148, 149 of the IPC with the Bandgarden Police Station in respect of offences not concerning the victim. The antecedents are not such that the facility of bail should be denied to the applicant.

7. In my opinion, the applicant could be released on bail as the investigation is complete and the charge-sheet has been filed. The apprehension of learned APP as well as learned counsel for the respondent no.2 that the applicant may harass the victim can be allayed by imposing stringent conditions on the applicant. The applicant does not appear to be a flight risk. Hence the following order.

ORDER

(a) The application is allowed.

(b) The applicant in connection with FIR No.23/2022 with Bandgarden Police Station, Pune, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall report to the concerned Police Station once every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not enter Pune District till conclusion of the trial except for the purpose of reporting to the investigating officer or for attending trial.

(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.

8. The application is disposed of accordingly.

(M. S. KARNIK, J.)