



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

BAIL APPLICATION NO.444 OF 2023

YOGESH BHARAT DONGARE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. A. S. Shitole for the applicant.

Mr. N. B. Patil, APP for the State.

Adv. Onkar Wable for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 8, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 354, 354-A, 354-D 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 (hereafter "POCSO Act", for short) registered on 5/8/2022 vide C.R. No.516/2022 with Khed Police Station, Pune. Thereafter, Sections 376(2)(j), 376(3), 506 and 341 of the IPC were added.

3. The applicant was arrested on 5/8/2022 and is in custody for more than one year. At the relevant time, the applicant was 23 years old and the victim was 16½ years of age. There is one prior First Information Report (FIR) of the year 2002 lodged by the victim on 6/2/2020 under Sections 354-D, 506 of the IPC read with Section 12 of the POCSO Act. It is thereafter alleged that sometime in August 2021, the applicant was known to the victim, had physical relations with the victim. Since the applicant was showing photographs of the victim and the applicant to his friends, the victim stopped talking to the applicant. It is alleged that on the date of the incident i.e. 23/7/2022, the applicant stopped the victim and asked as to why she was not talking to him. It is alleged that the applicant held her hand and said that he wants to speak with the victim for five months. The victim's cousin brother informed the parents about the incident whereafter the FIR was lodged.

4. Though from the contention of learned counsel for the applicant, *prima facie* it appears that the relationship between the applicant and the victim was consensual in nature, however, considering the age of the victim, such

consent cannot be a factor to be considered in favour of the applicant. It is then submitted that the victim is of the age of understanding.

5. The applicant is in custody for more than one year with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk. In the facts and circumstances of the present case and considering the age of the applicant, the applicant can be enlarged on bail by imposing stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Yogesh Bharat Dongre in connection with C.R. No.516/2022 with Khed Police Station, Pune, 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 is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 6 weeks in lieu of surety.

- (d) The applicant shall attend the Investigating Officer of Khed Police Station, Pune, once in three months every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (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) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of Khed Police Station and Chakan Police Station after being released on bail, till the trial concludes.
- (h) The applicant shall attend the trial regularly.
- (i) If any attempt is made by the applicant to contact or threaten the complainant or the victim or the applicant is seen in the area where the complainant and the victim reside, the same will be viewed very seriously.

6. The application is disposed of.

7. I express my gratitude for the able assistance rendered by the advocate- Mr. Onkar Wable representing the respondent no.2. The Legal Services Authority may pay the fees to advocate Mr. Onkar Wable as prescribed or if not prescribed, a sum of Rs.5000/-.

(M. S. KARNIK, J.)