

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

BAIL APPLICATION NO.711 OF 2022

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Yusuf Yunus Shaikh

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Keshav Chavan i/b/ Mr. Ganesh Iyer for the Applicant.

Mr. Sachin B. Chandan, Advocate appointed for the Respondents

Mr. S.V. Gavand, APP for the Respondent No.1.-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 26th APRIL, 2023.

P. C. :-

1. This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Special Case No. 293 of 2021 pending on the file of learned Special Judge and Additional Sessions Judge, Borivali (Div.), Dindoshi, Goregaon, Mumbai. Said case arises from C.R. No.459 of 2021 registered with Sakinaka Police Station, Mumbai, for the offences punishable under Section 323, 324, 376, 376(2)(i), 313, 465, 471, 504 and 506 of the IPC.

2. Heard Mr. Keshav Chavan, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced

by the learned counsel for the respective parties.

3. The crime was registered pursuant to the FIR lodged by the prosecutrix. A perusal of the FIR prima facie indicates that the Applicant and the prosecutrix had entered into sexual relationship when both were minors. They continued to have consensual physical relationship even after they attained the age of majority. The FIR reveals that the prosecutrix had lodged the FIR against the Applicant in February 2019 for committing theft of her mobile but later on 08/04/2021 she accompanied the Applicant and lived with him in a hotel till 13/04/2021. They continued to have physical relationship even after the Applicant had allegedly taken her obscene photographs and compelled her to terminate the pregnancy.

4. Considering the nature of accusations and particularly the age of the Applicant, who is presently about 20 years, in my considered view this is a fit case to exercise discretion under Section 439 of the Cr.P.C. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Special Case No. 293 of 2021 pending on the file of learned Special Judge and Additional Sessions Judge,

Borivali (Div.), Dindoshi, Goregaon, Mumbai, shall be released on bail on furnishing PR bonds in the sum of Rs.30,000/- with one or two sureties to the like amount;

(ii) The Applicant shall report the concerned police station once in two months on the first Monday of the month.

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case ;

(iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;

(v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates.

5. The Bail Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)