



Diksha Rane

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

BAIL APPLICATION NO.666/2023

KRUSHNA KANHA MANKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Masuma Merchant a/w. Adv. Rashmi S. Dandekar i/b.
Adv. Satyandar Yadav for the applicant.
Ms. Veera Shinde, APP for the State.
Adv. Om M. Lonkar for the complainant.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 25, 2023.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. This is an application for bail in respect of the offence punishable under Sections 376(1) of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 4, 8 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered on 10/4/2022 vide C.R. No.64/2022 with Uttan Sagari Police Station.
3. The applicant, at the relevant time, was 29 years of age, married and having two children. The victim, who on

the basis of the birth certificate is 16 years and 11 months old at the relevant time, states that the applicant has committed forcible sexual intercourse on her person. The victim is known to the applicant. According to learned counsel for the applicant, the applicant and the victim were in love relationship.

4. Learned APP submits that on record is the medical examination report which reveals that male DNA is detected in cervical swab of the victim.

5. Learned counsel for the applicant made an attempt to submit that in statement under Section 161 of the Code of Criminal Procedure (Cr.P.C.) the age of the victim is stated to be 18 years and therefore, the question of applicability of the provisions of the POCSO Act does not arise. However, on record is also a birth certificate indicating that the victim was minor at the time of the incident and even the statement under Section 164 of the Cr.P.C. records the same.

6. The applicant was arrested on 11/4/2022. I am informed that the charge has been framed by the trial Court and the trial has commenced. I am not inclined to enlarge

the applicant on bail at this juncture. I may not be understood to have expressed any opinion on the merits of the contentions having regard to the nature of the accusations.

7. The trial Court is requested to record the evidence of the child witness in view of the mandate of Section 35(1) of the POCSO Act expeditiously.

8. Liberty to file a fresh application for bail after recording the evidence of the child witness.

9. The application is disposed of accordingly.

(M. S. KARNIK, J.)