



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

BAIL APPLICATION NO.999 OF 2023

OMKAR MAHADU DHENGLE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Priyal Sarda, for the applicant.
Mr. N. B. Patil, APP for the State.
Mr. Nikhil Patil, for Respondent No.2.
API-Mr. Bhaskar Jadhav, L.C.B. Thane Rural is present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 8, 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 376 and 506 of the Indian Penal Code, 1860 and under sections 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act"), and under section 67 of the Information Technology Act, 2008 registered vide C.R. No. 0250 of 2022 with Khadki Police Station. The FIR is lodged on 23/09/2022. The applicant was arrested on 23/09/2022.

3. The applicant is 22 years of age. At the relevant time, the victim was 15 years of age. It is the allegation that the applicant is in custody for almost 1 year. It is alleged that the applicant had forcible sexual relationship with her. It appears that the relationship was consensual in nature. However, having regard to the provisions of POCSO Act, the victim's consenting to such relationship will not be a factor which can be considered in favour of the applicant.

4. Learned APP as well as learned counsel for respondent no.2 submitted that the conduct of the applicant is not noteworthy in as much as he has uploaded objectionable photographs of the applicant and the victim on Instagram. The mobile phone has been confiscated/seized and sent for analysis.

5. Learned counsel for the applicant submitted that the applicant has not uploaded any of the objectionable videos and/or photographs on Instagram or circulated them. He submitted that the mobile phone is also seized and he does not have any pictures. Learned counsel for the applicant further submitted that the victim was of the age of the understanding when the alleged act is said to have been committed.

6. There are no criminal antecedents reported against the

applicant. The applicant is in custody for almost 1 year with no possibility of trial concluding any time soon. In the facts and circumstances of the present case, considering the age of the applicant, the applicant can be enlarged on bail. The investigation is complete. The charge-sheet has been filed. The applicant can be enlarged on bail by imposing stringent conditions. The applicant will face the consequences of the trial. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Omkar Mahadu Dhengle in connection with C.R. No.250 registered with Khadki Police Station shall be released on bail on his furnishing PR. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the investigating officer of Khadki police station once in a month every first Sunday of the month between 11.00 a.m. and 1.00 p.m.
- (d) 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.

(e) 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) The applicant shall not enter the jurisdiction of Juni Sangvi, Pune till the trial is over.

(h) The applicant shall not establish any contact with the victim or try to intimidate her.

(i) If it is reported that any attempt has been made by the applicant to contact or threaten the victim, the same will be viewed very seriously inviting the consequence of cancellation of bail.

7. The application is disposed of.

(M. S. KARNIK, J.)