

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

BAIL APPLICATION NO. 910 OF 2023

ROHAN BHANUDAS HATKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Aniket Nikam i/b Mr. Amit Icham, for the Applicant.
Ms. Gauri Velankar, for Respondent No.2.
Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 04, 2023

P.C. :

- 1.** Heard learned counsel for the applicant, learned counsel for respondent no. 2 and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under sections 376, 376(2)(i)(j), 376(3), 354-A of the Indian Penal Code (hereafter 'IPC' for short) and under sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short) registered vide C.R. No.439 of 2022 of with Wanwadi Police Station, Pune. The date of the FIR is 22/10/2022. The applicant is arrested on 26/10/2022.
- 3.** The statement of the victim was recorded on 21/10/2022

when her mother realised that she was 7 month's pregnant. The victim at the relevant time 16 years of age. In the statement recorded on 21/10/2022, the victim did not accuse anyone. The supplementary statement of the victim was recorded on 27/10/2022. In the said supplementary statement, she has made allegations against the present applicant-accused no.1 and also against accused no.2. So far as the accused no.2 is concerned, the victim states that he had forcible sexual relations with her. Thereafter accused no.2 threatened her, as a result of which she was forced into further physical relationship.

4. So far as the present applicant is concerned, from the victim's statement, it appears that the victim and the applicant were in a relationship which appears to be consensual in nature. However, in view of the provisions of the POCSO Act, consent of the victim is immaterial.

5. Learned APP and learned counsel for the respondent no. 2 opposed the application. It is submitted that the offence alleged is serious and the victim was hardly 16 years of age at the relevant time, and therefore, the victim being a minor, the applicant be denied the facility of bail.

6. The applicant is 22 years of age. There are no criminal antecedents reported against the applicant. It is the contention of learned counsel for the applicant that the prosecutrix was of the age of understanding and she has not named the applicant in the FIR. He submits that in the supplementary statement, she has named two accused. It is contended that there is a delay in lodging FIR.

7. The investigation is complete and charge-sheet is filed. In the facts and circumstances of the present case, considering that the applicant is 22 years of age and that he is in custody for a period of almost 9 months, as the trial is likely to take a long time to conclude, the applicant can be enlarged on bail. I am informed that the victim is presently not residing in the same area as that of the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Rohan Bhanudas Hatkar in connection with C.R. No. 439 of 2022 registered with Wanwadi Police Station, Pune 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 is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 4 weeks in lieu of surety.

(d) The applicant shall attend the investigating officer of the Wanwadi Police Station, Pune once in two months commencing from October 2023 on every first Monday of the alternate 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) The applicant shall not establish any contact with the victim.

8. The application is disposed of.

(M. S. KARNIK, J.)