

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

**BAIL APPLICATION NO.1528 OF 2022**

Surya Suresh  
VS.

..Applicant

The State of Maharashtra and anr.

..Respondents

PRADNYA  
MAKARAND  
BHOGALE  
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MAKARAND  
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Adv. Namrata Shenoy a/w Adv. Priyanka Mahadeshwar a/w  
Adv. Narmatha Mohan for the Applicant.

Adv. Payal Vardhan for respondent No.2/complainant.

Ms. A. A. Takalkar, APP for the State/respondent No.1.

Mr. Sachin Mhaske, PSI, Pairavi Officer, Malwani Police  
Station is present.

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**CORAM : M. S. KARNIK, J.**

**DATE : FEBRUARY 16, 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 by the applicant-Surya  
Suresh in connection with C.R. No.505 of 2021 dated  
07/05/2021 registered with Malwani Police Station for the  
offence punishable under Sections 363, 366-A, 368, 376,  
376(2)(N) of the Indian Penal Code, 1860 and under  
Sections 4, 5(L)(M), 6 of the Protection of Children from  
Sexual Offences Act, 2012 (hereafter 'the POCSO Act' for  
short).

**3.** The applicant was arrested on 03/08/2021. At the relevant time the victim was above 16 years of age and the applicant was 21 years of age. From the statement of the victim dated 07/05/2021 it appears that there was a love affair between the applicant and victim. The applicant proposed marriage. The mother of the victim was against the marriage. The victim left her parental home and alleged that the applicant solemnized marriage with her on 21/08/2020. The applicant's parents were present at the time of marriage. The applicant had physical relations with the victim and she continued to reside with the applicant. It is thereafter alleged that on and from 10/04/2021 the applicant come alongwith the victim started residing at Malwani in a room adjacent to the victim's mother. The applicant became addicted to alcohol and started ill-treating her. On 05/05/2021, as the applicant did not come home, the victim tried to contact the applicant but he was not answering the phone calls.

**4.** Learned counsel for the victim relied upon two decisions in support of her submission that this Court must

not entertain the present application :-

(i) **X (Minor) vs. The State of Jharkhand & Anr.**<sup>1</sup>

(ii) **Prveen Kashyap vs. State of U.P. and Ors.**<sup>2</sup>

**5.** In the matter before the Supreme Court in **X (Minor) vs. The State of Jharkahnd** (supra) the victim was barely thirteen years of age on the date when the alleged offence took place. The Apex Court held that in such circumstances, both the grounds, namely that there was a love affair between the victim and the accused as well as the alleged refusal to marry, will have no bearing on the grant of bail. The Apex Court having regard to the age of the prosecutrix and the nature of the gravity of the crime held that no case for the grant of bail was established. In the present case the victim was above 16 years of age when the proposal was made to her by the applicant. The victim was residing with the applicant for more than one year. The victim being a minor, no doubt, her consent is not material. However, taking an overall view of the matter, now that the applicant is in custody for more than 1 year and 6 months with no

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1 Criminal Appeal No.263 of 2022 (Supreme Court of India)

2 Criminal Misc. Bail Application No.36810 of 2022 (High Court of Allahabad)

possibility of the trial concluding any time soon persuades me to release the applicant on bail. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. I am informed that the victim is residing at Malad. The offence is registered by the Malwani Police Station. Some stringent conditions need to be imposed.

**6.** Hence, the following order :-

**ORDER**

- (a) Application is allowed.
- (b) Applicant-Surya Suresh shall be released on bail in connection with C. R. No.505 of 2021 dated 07/05/2021 registered with Malwani Police Station 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 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) The applicant shall attend the trial regularly.

(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 not to enter the jurisdiction of Malad and Malwani Police Station till the trial is over.

**7.** The Bail Application is disposed of.

**8.** I appreciate the assistance rendered by Advocate Payal Vardhan who was requested to appear on behalf of the victim who opposed the present application.

**(M. S. KARNIK, J.)**