

Urmila Ingale

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

BAIL APPLICATION NO. 1182 OF 2020

Shri Ajay Sanjay Bhidve	..Applicant
Vs.	
1. The State of Maharashtra	
2. XYZ	.. Respondents

Mr. Devidas Jadhav a/w Mr. Ghanshyam Jadhav i/b
Dhananjay Kendre, for Applicant.
Mr. Veerdhawal Deshmukh, for Respondent No.2.
Ms. A. A. Takalkar, APP for State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 5, 2023

P.C. :

- 1.** Heard learned counsel for the applicant, learned counsel for respondent no.2 and learned APP.
- 2.** This is an application for bail filed by the applicant Ajay Sanjay Bhidve, in respect of C.R. No. I-328 of 2019 registered with Mahatma Phule Police Station, Kalyan, Dist. Thane for the offence punishable under sections 376(2)(J) (L) of the Indian Penal Code, 1860 and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences

Act, 2012.

3. At the relevant time, the victim was 17 years of age and studying in a college in Mumbai. The victim is stated to be suffering from learning disability. The applicant is 20 years of age. The victim was on instagram. The applicant contacted the victim through Instagram. Later on, it is alleged that they met in person and the applicant had physical relations with the victim against her wishes. In the statement of the victim recorded under section 164 of the Code of Criminal Procedure, the victim has narrated the incident by the applicant. The victim has delivered a stillborn female child in the hospital. It is the case of the learned counsel for the applicant that this is a case of consensual relationship. He submits that the applicant was 20 years of age and the victim was 17 years of age at the relevant time.

4. Learned APP and learned counsel for respondent no.2 vehemently opposed the grant of bail to the applicant. It is submitted that the victim was below 18 years of age and the applicant had taken advantage of her learning disability.

It is submitted that the victim suffered to the extent that she delivered a stillborn female child. The DNA report is inconclusive.

5. The applicant at the relevant time was 20 years of age. The applicant is in custody for more than three and half years. The investigation is complete and charge-sheet is filed. I am informed that even charge has not been framed by the trial Court. The trial is not likely to conclude any time soon. The applicant at the relevant time was studying in college. Considering the period of incarceration of the applicant and possibility of trial not concluding any time soon, in my opinion, the applicant can be released on bail by imposing some stringent conditions. Hence, the following order.

ORDER

(a) Application is allowed.

(b) Applicant -Ajay Sanjay Bhidve shall be released on bail in connection with C.R.No.I-328 of 2019 registered with the Mahatma Phule Police Station, Kalyan, District-Thane on furnishing P.R. Bond of Rs.25,000/- with one or

more sureties in the like amount.

(c) The applicant shall report to the concerned police station once a month, every first Monday between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called.

(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.

(f) The applicant shall not enter the area of Kalyan and Prabhadevi, Mumbai till the conclusion of trial.

(g) The applicant shall not establish contact with the complainant.

6. The application is disposed of.

(M. S. KARNIK, J.)