

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

BAIL APPLICATION NO. 3172 OF 2021

Pandurang Keru Patekar ..Applicant
VS.
State of Maharashtra and Anr. ..Respondents

Adv Mallika Sharma i/b Anjali Patil for the Applicant.

Ms. Shraddha Sawant for the Respondent no. 2.

Ms. A. A. Takalkar, APP for the State.

PSI – Deepak Kushare, Kasara Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 8, 2023

P.C. :

- 1.** Heard learned counsel for the parties and learned APP for the State.
- 2.** This is an application for bail by the applicant- Pandurang Keru Patekar in connection with C.R. No.125 of 2020 dated 21/11/2020, registered with Kasara Police Station, under sections 363, 376(2)(i), 328, 506 read with 34 of the Indian Penal Code, 1860, under sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and under section 9 of the Prohibition of Child

marriage Act, 2006.

3. The First Information Report (“FIR”, for short) is registered on 21/11/2020 by the father of the victim. On 29/11/2020 the statement of the victim was recorded in the question-answer form. In the 14th question, she stated that she eloped with the applicant, but in the answer of the next question she stated that she was forcibly taken by the applicant. She stated that the applicant married the victim. The victim stated that she did not immediately inform her parents as the applicant threatened to commit suicide if she informs her parents. Therefore, there is a delay of 3 weeks in registering the FIR. The applicant is the maternal uncle of the victim. On record is a marriage settlement agreement between the applicant and the victim which mentions that the age of the victim is 18 years and 3 months. The applicant was 38 years of age and had previously married. In the said marriage settlement agreement it was stated that the applicant divorced his first wife as per the customs and traditions and then he married the victim. The said agreement also signed by the victim is dated 25/11/2020.

4. So far as the age of the applicant is concerned, the

school leaving certificate (page no. 181 of the paperbook) states that the date of birth is 27/08/2002. As per the school leaving certificate the age of the victim on the date of the incident is above 18 years. There is a statement from the employee of the school who had issued the school leaving certificate. From the Kasara Police, it came to his notice that the date of birth of the victim is 16/08/2004. He states that the victim's father at the time of admission had increased the age of the victim by 2 years. On record is also the birth certificate which indicates the date of birth as 16/08/2004.

5. *Prima facie*, it does not appear that the applicant was aware that the victim was a minor. There is a discrepancy in the documents reflecting the date of birth. The discrepancy is a debatable issue for trial. I am inclined to grant the benefit to the applicant for the purpose of bail without expressing any opinion. From the statement of the victim, *prima facie*, in my opinion, the relationship between the applicant and the victim is consensual in nature. There is a delay of 3 weeks in registering the FIR. The applicant is in custody for more than 2 years and 2 months without any

possibility of trial concluding any time soon, as even the charge has not been framed. No criminal antecedents are reported against the applicant. The investigation is complete and the charge-sheet has been filed. In my opinion, having regard to the materials on record, the applicant can be enlarged on bail. Hence, the following order.

ORDER

- (a)** Applicant- Pandurang Keru Patekar in connection with C.R. No.125 of 2020, registered with Kasara Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount;
- (b)** The applicant is permitted to furnish temporary cash bail surety in the sum of Rs.15,000/- for a period of 6 weeks in lieu of surety;
- (c)** The applicant shall report to the concerned police station as and when called;
- (d)** Except for the purpose of reporting on the dates fixed by the Investigating Officer, the applicant shall not enter in Shahapur Taluka till the trial is over;
- (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.

6. The application is disposed of.

7. I express my gratitude for the able assistance rendered by the advocate- Ms. Shraddha Sawant appointed for Respondent no. 2.

(M. S. KARNIK, J.)