

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2547 OF 2022**

VAISHALI
ANIL
TIKAM

Sandeep Shamraj Paal

.... Applicant

Versus

The State of Maharashtra and Anr.

.... Respondents

Digitally
signed by
VAISHALI
ANIL TIKAM
Date:
2023.10.25
14:11:28
+0530

Mr. Ramprakash R. Pandey a/w. Mr. Udybhan Tiwari, Advocate for the Applicant.

Ms. P.N. Dabholkar, APP for Respondent No.1 -State

Ms. Supriya Kak Advocate appointed for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No. 31 of 2022 registered with Sakinaka Police Station, Mumbai for offences punishable under Sections 376, 376(2) (j) (n), 376 (3), 354(b), 354(a)(1) (f) r/w. Section 34 of Indian Penal Code, 1860 and under Sections 4,6,8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. It is prosecution's case that mother of victim lodged complaint on 6th January, 2022 stating that Applicant had love affair with the victim and out of that love affair, the applicant sexually assaulted the victim. Due to the said sexual assault, the victim became pregnant. In investigation, police recorded the statement of

the victim. In the statement, she stated that four co-accused had also committed sexual assault on her and they were arrested by the police.

3. It is the contention of learned counsel for applicant that at the time of incident, the victim was more than 16 years old. Prior to Applicant's alleged sexual assault, the victim was sexually assaulted by the other co-accused and they are released on bail by the trial court. Applicant has been falsely implicated in this case. Applicant is behind bar for more than twenty-two months. Investigation is completed, charge-sheet has been filed. Hence, requested to allow the application.

4. It is the contention of learned APP that in FIR, specific role is attributed to the applicant that he had sexually assaulted the victim on the pretext of marriage. Due to the said sexual assault, the victim got pregnant. There is prima facie case against the applicant. Hence, requested to reject the application. Learned counsel for Respondent No.2 reiterates the submissions of the learned APP.

5. I have heard all learned counsel, perused the FIR and charge-sheet.

It is alleged that Applicant and victim had love affair and out of that love affair, the applicant had sexually assaulted the victim. Thereafter complaint was lodged. In police investigation, police recorded the statement victim. In the statement, police has recorded that earlier the victim had sexually assaulted by the four co-accused and that four co-accused have been released on bail by the trial court. At the time of incident, victim was more 16 years old. Applicant is behind bar for more than twenty-two months. Investigation is completed and charge-sheet has been filed. This Court [M.S. Karnik, J.] by order dated 13th February, 2023 has taken a view that when the relationship of the applicant and victim began, the victim was about 16 years of age and considering this ground and other grounds, the Court has released the accused in that case on bail. In the present case, prima facie at the time of incident, victim was 16 years of age. Four co-accused have been released on bail. Yet charge has not been framed. It may take time to conclude the trial. Investigation is completed, charge-sheet has been filed.

6. Considering the above facts, applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail Crime No. 31 of 2022 registered with Sakinaka Police Station, Mumbai on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
 - (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
 - (iii) Applicant shall not enter the jurisdiction where the victim and prosecution witnesses are staying.
 - (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
 - (v) The Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.
7. The application is allowed in the aforesaid terms and is accordingly disposed off.
8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)