

VRJ

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

BAIL APPLICATION NO.2911 OF 2022

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Jaspreetsingh Sardarsingh Sodhi ... Applicant
V/s.
 The State of Maharashtra & Anr. ... Respondents

Mr. Sadanand Bansode i/by Ms. Savina Crasto for the applicant.

Ms. Rutuja Ambekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 8, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973, in connection with C.R. No.26 of 2022 for offences punishable under sections 376(2), 367(2)(N), 354-A of the Indian Penal Code, 1860 and sections 5(J)(2), 5(L), 6, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. According to the prosecution, the applicant committed forcible sexual intercourse with the victim between period of October 2020 till March 2021 at the residence of the applicant. According to the prosecution, the applicant clicked semi nude photographs of the victim and by threatening her to make them viral and to send it to her parents, the applicant had repeated sexual intercourse with the victim which resulted in pregnancy.

According to the prosecution, the applicant threatened her to kill her father. According to the prosecution, on 11th December 2021, victim delivered a baby, however, the applicant disposed of new born baby and destroyed crucial link.

3. Learned advocate for the applicant submitted that there is material inconsistency in the statement of the victim and her parents in as much as it relates to pregnancy of the victim. The prosecution has failed to produce material on record to show that the applicant was responsible for the pregnancy of the victim. According to her, the applicant is medically unfit to impregnate the victim. The applicant was arrested on 20th February 2022. He is in jail for more than one and half year. It is unlikely that trial would be completed within near future. The sole testimony of victim is not sufficient to warrant further detention of the applicant. She, therefore, prayed for release of the applicant under section 439 of the Criminal Procedure Code, 1973.

4. Per contra, learned APP invited my attention to statement under section 164 of the Code of Criminal Procedure, 1973, wherein the applicant has narrated the incidents in detail. According to her, the victim was 14 years aged at the time of incident. The applicant is 42 years old. The applicant is married person. Therefore, the offence is serious. She, therefore, prayed for rejection of the application.

5. On perusal of the charge-sheet and material on record, it prima facie appears that the date of birth of the victim is 25th December 2005. Therefore, prima facie it appears that she is a

child within definition of section 2(d) of the Protection of Children from Sexual Offences Act, 2012. According to the prosecution, first incident of sexual assault took place in October 2020. Therefore, it prima facie appears that the victim's age on the date of first assault was less than 15 years. The applicant is married person. He is aged about 42 years. Prima facie material indicates that the incidents of sexual assaults took place in the secluded room at the residence of the applicant. It appears that there are series of incidents.

6. In so far as the proof of pregnancy is concerned, according to learned APP, the material on record indicates that the applicant was medically fit to impregnate the victim however all such factors need to be decided during the trial.

7. The statement of the victim recorded under section 164 of the Criminal Procedure Code, 1973 prima facie satisfies the case made out against the applicant. Therefore, the applicant is not entitled to be released on bail.

8. The bail application is, therefore, rejected.

9. However, the trial Court is directed to expedite the trial.

(AMIT BORKAR, J.)