

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3171 OF 2022

Suraj Laxman Dhulsada

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

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Mr.Gautam Kanchanpurkar, for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent-State.

Mr.Veerdhawal Deshmukh, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th AUGUST 2023

P.C:-

. By this Application, Applicant is seeking bail in C.R.
No.19 of 2022 registered with Dahanu Police Station, District-
Palghar, for the offence punishable under Sections 376, 376(2)
(n) of the Indian Penal Code and Sections 4 and 8 of the
Protection of Children from Sexual Offences Act, 2012.

2. It is case of the prosecution that, when the victim had
been to the house of his brother-in-law Shri.Rajesh Laxman

Dhulsada for help in his agriculture land. During her stay there Applicant, brother in law of Laxman sexually assaulted her under threat saying that, he would kill her if she make bye and cry. It is further alleged that, Applicant repeatedly sexually assaulted the victim without her consent. Thereafter, Applicant promised to marry with her and requested the victim not to disclose this fact to anybody. In the month of November 2021 the mother of victim came to know about pregnancy of the victim, therefore she enquired with the victim and took her Civil Hospital for examination where it disclosed that victim was three months pregnant. Thereafter, the parents of victim contacted the Applicant and requested him to marry with her. But Applicant refused. Hence, complaint was lodged against the Applicant. The Police have registered offnece against the Applicant under above referred offences.

3. It is contention of learned counsel for the Applicant that, at the time of the lodging complaint victim was 17 years and 9 months old. The said sexual relations were consensual in

nature. The Applicant was having love affair with the victim and the relationship between the Applicant and victim was consensual. The age of the victim was understandable to come to know about the consequences of the act. Incident took place in the month of August 2021 and offence was registered in February 2022. The Applicant is in jail for more than 18 months. He is Karta of his family. Hence, requested to allow the Application.

4. The learned APP submitted that, victim was below 18 years at the time of said act. Therefore, her consent is immaterial. The Applicant had taken disadvantage of the acquaintance and sexually assaulted the victim. It is clarified by medical certificate that, the victim got pregnant due to said sexual assault. If Applicant is released on bail he may threaten the victim. Hence, requested to reject the Application.

5. The learned counsel for Respondent No.2 reiterates the submission's of learned APP.

6. I have heard both learned counsel. Perused FIR and charge-sheet.

7. Admittedly, at the time of the lodging complaint victim was 17 years and 9 months old. There are circumstances to indicate that, there was no element of force, or coercion at the instance of the Applicant, while having sexual relations with the victim. The sexual relation between the Applicant and the victim had taken place on several occasions. Considering age of victim she knew the consequence of the act. The investigation is complete and the charge-sheet has been filed. The Applicant is in jail more than 18 months. His further detention is not required.

8. In view of above, I pass following order.

ORDER

(i) The Applicant shall be released on bail in C.R. No.19 of 2022 registered with Dahanu Police Station, District-Palghar, on his furnishing PR bond of

Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Dahanu Police Station, District-Palghar once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till the conclusion of the trial.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)