



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

BAIL APPLICATION NO. 3023 OF 2022

Salim Rahimsaheb Sagri

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Ms, Bhagyashri Mangale for the Applicant.

Ms. Ilsa Shaikh for the Respondent.

Mr. R.M.Pethe, APP for the State.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 18th AUGUST, 2023.

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Special Case No.12 of 2022 pending on the file of the Special Judge, Barshi. The said case arises from Crime No. 30 of 2022 registered with Karmala Police Station, for the offences punishable under Section 376, 354, 323, 504, 506 r/w. 34 of the Indian Penal Code, and Section 4, 6, 8 and 12 of Protection of Children from Sexual Offences Act.

2. Heard learned Counsel for the Applicant and learned APP for the State, and learned Counsel for the Respondent No.2. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the victim who was about 16 years and 7 months old as on the date of registration of the crime. She was a student of 11th Standard. The applicant and the victim got acquainted on share chat mobile App. They talked with each other on share chat as well as on whats-app, and eventually the duo fell in love and indulged in sexual relationship. Though the victim claims that the sexual relationship was forcible and without the consent, the FIR prima facie reveals that she had accompanied the applicant to a lodge several times and indulged in physical relationship. The relationship prima facie appears to be consensual. No doubt the victim was a 'child' within the meaning of Section 2(d) of the POCSO Act. Nevertheless, at this stage, while considering the bail application, it cannot be overlooked that the applicant is also a young boy of 21 years of age. He is in custody since long and may continue to languish in jail, since the possibility of expeditious disposal of case is dim and distant, particularly considering the large pendency of cases. Considering the above facts and particularly, the age of the applicant, in my considered view this would be a fit case to exercise discretion under Section 439 of Cr.P.C. Hence the application is allowed on the following terms

and conditions:-

- (i) The Applicant who is facing trial in Special Case No.12 of 2022 pending on the file of the Special Judge, Barshi, is ordered to be released on furnishing bail bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount;
 - (iii) The Applicant shall attend the police station, once in three months on the first Monday of the month till framing of the charge;
 - (iv) The Applicant shall appear the hearing on every date, unless exempted;
 - (v) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;
 - (v) The Applicant shall keep the Investigating Officer informed of his permanent as well as temporary address, if any, and his contact details, and/or change of residence or mobile details from time to time.
- . Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)