



Diksha Rane

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

**BAIL APPLICATION NO.3035/2023**

AMIT KUMAR TATVA

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

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Adv. Ganesh Gupta a/w. Adv. Deepak Gupta, Adv. Sahil  
Ghorpade i/b. GG Legal Associates for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Priyanka H. Chavan for the respondent no.2.  
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**CORAM : M. S. KARNIK, J.**

**DATE : NOVEMBER 3, 2023.**

**P.C. :**

**1.** Heard learned counsel for the applicant, learned APP  
for the State and learned counsel for the respondent no.2

**2.** This is an application for bail in respect of the offence  
punishable under Sections 376(i), 366, 506 of the Indian  
Penal Code (hereafter 'IPC' for short) read with 3, 4, 7 and 8  
of the Protection of Children from Sexual Offences Act, 2012  
(hereafter 'the POCSO Act' for short) registered on  
11/9/2019 vide C.R. No.594/2019 with MIDC, Bhosari Police  
Station, Pune.

**3.** The applicant, at the relevant time, was 19 years of

age. There is some controversy about the age of the victim. In the medical history, the victim has stated her age to be 16 years at the relevant time. In the First Information Report (FIR) the age is reflected as 15 years. As in the bonafide certificate issued by the school where the victim was taking education, to which learned counsel for the applicant has some objection, the age of the victim at the relevant time would be 9 years.

**4.** It is the accusation that when the parents of the victim went for work, the applicant had visited her house and had forcible sexual relations with her. Learned APP submitted that the victim suffered abortion and the DNA matches with that of the applicant.

**5.** Learned counsel for the respondent no.2 while opposing the application for bail submitted that having regard to the age of the victim, even if it is the contention of learned counsel for the applicant that the parties were in consensual relationship, such a consent is immaterial having regard to the provisions of the POCSO. She submitted that having regard to the age of the victim and the manner in which the incident happened, the applicant

should not be enlarged on bail.

**6.** It may be that the materials reveal that the relationship between the applicant and the victim appear to be consensual in nature. However, having regard to the age of the victim such consent is immaterial in view of the provisions of POCSO Act.

**7.** The reason why I am inclined to enlarge the applicant on bail is that the applicant was arrested on 11/9/2019 and is now in custody for more than 4 years as an undertrial. I am informed that even the charge has not been framed and therefore, the trial is likely to take a long time to conclude. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. The applicant, at the relevant time, was 19 years of age. There is nothing on record to indicate that there are criminal antecedents reported against the applicant. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Hence, the following order :-

**ORDER**

(a) The application is allowed.

(b) The applicant- Amit Kumar Tatva in connection with C.R. No.594/2019 registered with MIDC, Bhosari Police Station, Pune, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of MIDC, Bhosari Police Station, Pune, once in three months on the 1<sup>st</sup> Monday of the concerned month, between 11.00 a.m. and 1.00 p.m. till the trial concludes, commencing from December, 2023.

(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.

(g) The applicant shall not make any attempt to contact the victim.

(h) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the area where the victim is residing or taking education after being released on bail, till the trial concludes.

(i) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(j) The applicant shall surrender his/her passport, if any, to the investigating officer.

**8.** The application is disposed of.

**9.** I express my gratitude for the able assistance rendered by the advocate Ms. Priyanka H. Chavan representing the respondent no.2.

**(M. S. KARNIK, J.)**