



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

BAIL APPLICATION NO. 3089 OF 2023

AJINKYA SHIVAJI PATIL

..APPLICANT

VS.

STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. Nikhil Pawar, for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

Ms. Trupti Khamkar, for Respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 31, 2023

P.C. :

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

2. This is an application for bail in respect of the offences punishable under sections 376, 363 and 506 read with 34 of the Indian Penal Code, sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 and under sections 3(1)(w)(II), 3(2), (V-a)4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered on 04/09/2023 vide C.R. No. 157 of 2023 with Shirala police station, District- Sangli.

3. The applicant was arrested on 05/09/2023. The offence was registered on 04/09/2023. The date of the incident is 03/09/2023. The age of the victim is 17 years and 9 months at the relevant time. The applicant is aged 25 years.

4. Learned APP as well as learned counsel for the complainant opposed the application for bail. It is submitted that the investigation is on-going and at this stage, the applicant should not be enlarged on bail as he may tamper with the evidence. It is further submitted by learned counsel for the complainant that the complainant has school going daughters. The applicant is likely to harass them.

5. Learned counsel for respondent no.2 invited my attention to the decision of the Hon'ble Supreme Court in case of ¹**Munilakshmi Vs. Narendra Babu and anr.** to submit that the concern of the victim and witnesses also needs to be taken care of. There are no materials presently to indicate that the applicant is resorting to any such tactics. The said aspect will be taken into consideration if there is any attempt on the part of the applicant to

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pressurize/ threaten the victim or her sister.

6. Prima facie, I am of the opinion that the relationship between the applicant and the victim appears to be consensual in nature. Having regard to the age of the victim, though the consent is immaterial, nonetheless, in the facts and circumstances of the present case, considering that the victim was 17 years and 9 months of age at the relevant time, further upon perusal of 164 statement, I am of the view that the applicant can be enlarged on bail. The applicant is pursuing education at Vasantrya Naik Arts and Commerce College at Shirale. To allay the apprehension of the respondent no.2 that the applicant may try to contact/threaten the victim or her sister, I propose to impose stringent conditions while enlarging the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Ajinkya Shivaji Patil in connection with C.R. No.157 of 2023 registered with Shirala police station, District-Sangli 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 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.

(e) 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.

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

(g) Except for attending the trial, the applicant shall not enter Shirala Taluka after being released on bail, till the trial concludes. After filing of the charge-sheet, the applicant may make an application to the trial Court for modification of the condition for enabling the applicant to pursue his studies. Learned trial Judge shall obviously consider the application on its own merits after balancing the concern expressed by the complainant/victim. In no case, the

applicant shall enter the area where the victim or her sister reside or they are taking education.

(h) The applicant and his relatives are put to strict notice that if at all there is any grievance made by the complainant, the victim or any of the family members that they are being harassed, threatened, intimidated or attempt to win them over, that will be a cause for the prosecution or the complainant to apply for cancellation of bail. If such an application is made, the same shall be heard on priority.

7. The application is disposed of.

(M. S. KARNIK, J.)