

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

CRIMINAL BAIL APPLICATION NO. 1461 OF 2024

Dinesh Malapa Dharmgonda ...Applicant

Vs.

The State of Maharashtra and Others ...Respondents

Mr. Vishwanth Patil with Shantanu Katkar and Akshay Naidu and
Kedar Nhavkar, Advocate for Applicant.

Mr. S. S. Chaudhari, APP for State-Respondent.

Mr. Jugal Kanani, appointed through legal aid for Respondent No. 2.

CORAM:- ANIL S. KILOR, J.

DATED:- 25th SEPTEMBER, 2024

PC:-

- 1) Heard.
- 2) By this application under Section 439 of the Code of Criminal Procedure the applicants are seeking bail in Crime No. 09 of 2024, registered with Akkalkot South Police Station, Solapur for the offence punishable under Sections 376, 376(2)(n)(i), 376(3) and 313 of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.
- 3) The learned Counsel for the applicant submits that no age proof has been produced to show that the applicant is minor. It is further submitted that there was consent of the victim to establish sexual

relations by the applicant with her. It is further argued that as the applicant refused to marry the victim, the complaint came to be lodged.

4) The learned APP and the learned Counsel for respondent No. 2 strongly opposed the application and prayed for the dismissal of the said application.

5) Having gone through the charge-sheet and the material collected by the Investigating Officer during the investigation, it is evident that the statement of the victim was recorded under Section 164 of the Code of Criminal Procedure, 1973, wherein she has narrated how the applicant established physical relations with her. In her complaint, it is mentioned that the applicant repeatedly sexually assaulted her.

6) The school leaving certificate of Primary School Mirajagi shows the date of the applicant as 2nd November, 2007. Thus, prima facie there is evidence to show that the applicant was minor on the date of the lodging of the complaint or on the date when the applicant first time established physical relations with the victim. Since the victim is minor and the offence is registered under the provisions of POSCO, consent even if any is immaterial.

7) In the circumstances, in view of the fact that there is sufficient incriminating material available on record to show the involvement of the applicant in the alleged offence, I do not find the present application as fit for grant of bail. Accordingly, the application is rejected and disposed of.

[ANIL S. KILOR, J.]