

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1775 OF 2024

Amrut Arvind Pawar ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. Chetan Patil, I.by Mr. Mandar G. Bagkar, for the applicant.

Mr. Abhijeet Khade I.by Tejas Mane, for the complainant.

Mr. Pankaj Deokar, APP, for the Respondent/State.

CORAM : ANIL S. KILOR, J.

DATE : 12TH JULY, 2024.

PC:

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.8 of 2024 registered with Gadhinglaj Police Station, Kolhapur for the offences punishable under sections 363, 376, (2) (j) (n), 312, 34 of Indian Penal Code, (for short, 'IPC') and Sections 4 and 6 of the Protection Of Children from Sexual Offences Act (for short, 'POCSO' Act), 2012.

3. Having gone through the charge-sheet and considering the material collected by the IO during the investigation, it is evident that there was a love affair between the applicant and the victim and they

stayed together for 2 to 3 months. The victim is 17 years and 11 months of age and having sufficient maturity to understand the consequences of any decision taken in her life by her.

4. In the similar matter, the co-ordinate bench of this Court in the case of '*Nitin Damodar Dhaberao Vs State of Maharashtra, through Police Station Office of Police Station and Anr.*'¹ has observed thus:

“6. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. There is no dispute as to the fact that applicant is arrested on 30.08.2020 and there is no progress in the trial though charge-sheet is filed on 26.10.2020. As far as merit is concerned, admittedly victim is of 13 years of age and her consent is not relevant. However, the statements which are recorded by the Investigation Officer shows that victim has left her house at her own accord on the pretext of bringing the book from friend and not returned back at home. She also joined the company of the present applicant and also admitted her love relationship with the present applicant in her statement. From her statement it reveals that, she stayed along with the present applicant at various places and not made any grievance as she was taken by the present applicant by using some force. Thus it is apparent that, out of the love affair, she joined the company of the present applicant. The applicant is also of a tender age of 26 years and out of love affair they come together. It seems

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that, the alleged incident of sexual relationship is out of the attraction between the two young persons and it is not the case that applicant has subjected the victim for a sexual assault out of lust. Considering the fact that, though charge-sheet is filed long back in the year 2020 and there is no progress in the trial and trial will take its own time for final disposal. In view of that, further incarceration of the present applicant is not required and no purpose will be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly.....”

5. In view of the above referred observations and considering the nature of evidence collected by the IO in the present matter, I am of the opinion that since the charge-sheet has been filed, further custody of the applicant is not necessary . Moreover, the co-accused have already been released in this case.

6. In the circumstances, though the learned APP and the learned counsel for the complainant are strongly opposing the matter, I am of the opinion that the application needs to be allowed. Accordingly, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant shall be released on bail in in Crime No. Crime No.8 of 2024 registered with

Gadhinglaj Police Station, Kolhapur for the offences punishable under sections 363, 376, (2) (j) (n), 312, 34 of Indian Penal Code, (for short, 'IPC') and Sections 4 and 6 of the Protection Of Children from Sexual Offences Act (for short, 'POCSO' Act), 2012, on furnishing P.R.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;

iii) The applicant shall not enter into the territorial jurisdiction of Gadhinglaj Police Station, Kolhapur till the conclusion of the trial, except on the date of trial;

iv) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 10.00 a.m to 11.00a.m., till the conclusion of the trial except on the date of trial.

v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi) Liberty is granted to the State to apply for cancellation of bail if the applicant commits similar offence.

vii) The applicant shall attend the trial before the trial

Court regularly on every date unless exemption is granted by the trial Court.

7. The Criminal Application is **disposed of** accordingly.

(ANIL S. KILOR, J)