

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Balwant Salunkhe, for the applicant.

Ms. S.M. Yadav, APP, for the Respondent / State.

Mr. Madan Gupta for Respondent No. 2

CORAM : ANIL S. KILOR, J.

DATE : 6th December, 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.45 of 2023, registered with Vishrambag Police Station, Sangli, for the offences punishable under Sections 376(2)(n), 376-B, 376-C, 384, 370, 370-A(1) read with Section 34 of the Indian Penal Code, 1860 and under Sections 4, 5(a)(1), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012.
3. Having gone through the charge-sheet and the relevant material collected by the IO during the investigation, it is evident that there are

discrepancies about the age. As per the statement of the victim, she is married and is having a son who was born in the year 2020. As per the Medical Report, her age is between 17 to 19 years.

4. The Learned Trial Court while granting bail to Accused No.1 has observed that at some places, the victim stated her age as 23 and at some places 24. There is no age proof available in the charge-sheet. In absence of any age proof, *prima facie*, registration of offences under the provisions of POCSO Act, is doubtful. There are no allegations against the applicant that she forced the victim to do the commercial sexual activities.

5. In the above-referred backdrop and considering the fact that the applicant is in jail for last more than one and half years and other accused have already been released on bail, I am of the opinion that though the Learned APP and the Learned Counsel for the Respondent No. 2 strongly opposed the application, this is a fit case for grant of bail.

6. At this stage, it is pointed out that the applicant is from Bangladesh and if she is released on bail, she may not be available for trial. The said apprehension can be addressed by imposing certain stringent conditions.

7. Accordingly, I pass the following order.

ORDER

- i) Criminal Bail Application is allowed;
- ii) It is directed that the applicant shall be released on

bail in Crime No.45 of 2023, registered with Vishrambag Police Station, Sangli, for the offences punishable under Sections 376(2)(n), 376-B, 376-C, 384, 370, 370-A(1) read with Section 34 of the Indian Penal Code, 1860 and under Sections 4, 5(a)(1), 6 and 17 of the Protection of Children from Sexual Offences Act, 2012, on furnishing PR. Bond in the sum of Rs. Twenty Five Thousand with one solvent surety in the like amount

iii) The applicant shall attend the Vishrambag Police Station, Sangli, on 1st and 16th day of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;

iv) The applicant shall not directly or indirectly make any contact, inducement, threat or promise to Respondent No. 2 and/or any person acquainted with the facts of the case, as also not to tamper with the evidence;

v) Liberty is granted to the State to apply for cancellation of bail if the applicant misuses the liberty granted or commits breach of any condition;

vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

8. The Criminal Bail Application is disposed of .

(ANIL S. KILOR, J)