

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

BAIL APPLICATION NO.307 OF 2024

Sushil Rajendra Kadam

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Prashant Hagare, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent-State.

Mr. Pravin Abdagire, API, Hadapsar Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : FEBRUARY 13, 2024

P.C.:

1. Heard Mr. Pravin Hagare, learned Counsel appearing for the Applicant and Ms. Kaushik, learned APP appearing for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:-

1	C. R. No.	1143 of 2023
2	Date of registration of F.I.R.	04/08/2023
3	Name of Police Station	Hadapsar Police Station Pune District
4	Section/s invoked	376, 376(2)(n), 376(2)(f), 376(2)(i), 377, 323 & 506 of the <i>I.P.C, 1860</i> ; 4, 6, 8, 5(f), 5(1) & 12 of the <i>POCSO Act, 2012</i> .
5	Date of incident	03/08/2023
6	Date of arrest	04/08/2023
7	Date of filing Charge-sheet	29/09/2023

3. The Applicant is aged 32 years and the victim is aged 15 years and 2 months. As per the prosecution case, the Applicant, under the garb of helping the victim to secure an acting role in a film and under the pretext of taking the victim to attend a 'first look' and 'last look' of a film, took the victim to 'Abhishek Lodge' in Saswad-Pune and sexually assaulted the victim on three occasions.

4. It is the contention of the learned Counsel appearing for the Applicant that although the victim is only aged 15 years and 2 months, she is old enough to understand the prevailing circumstances and could have resisted the alleged second and third attempt of the sexual assault. It is his submission that she even travelled around 30 km away from her house. He submitted that there is no substance in the allegations of the prosecution. There is no injury on the body of the victim and therefore the Applicant be released on bail.

5. On the other hand, Ms. Kaushik, learned APP pointed out the F.I.R. as well as the statement of the victim recorded under Section 164 of the CrPC. She submitted that the age of the victim is 15 years and 2 months and the Applicant who is aged 32 years has sexually assaulted the victim on three occasions on the pretext of taking her to a film set for a 'first look' and 'last look' of

a film.

6. The Charge-sheet and the statements annexed thereto show that the Applicant took advantage of the desire of the victim and of her mother that the victim be given an opportunity to act in a film and the Applicant has sexually assaulted the victim. The record further shows that as soon as the mother of the victim came to know about the same, she called the Applicant on telephone and demanded that the victim should be immediately brought to her and thereafter the Applicant brought the victim in a car and dropped her at Shivaji Putla Chowk, Saswad and then immediately left the place.

7. The medical evidence also supports the prosecution case. Considering the age of the victim and the age of the Applicant and overall circumstances, this is not a fit case for granting bail.

8. Accordingly, the Bail Application is rejected. However, the Applicant is granted liberty to file a fresh Bail application after a period of one year, if there is no substantial progress in the trial.

9. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits and uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]