

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

Criminal Bail Application No.477 of 2023

Ramji Hardev Majhi
Age:38 years, Occ.: Labour,
R/o Sharad Mali Chawl, Bhagya Nagar,
Kamatghar, Bhiwandi, District Thae.
(At present lodged in Thane Central
Prison) ... Applicant.

Versus

1. The State of Maharashtra
(at the instance of Thane City
Police Station, CR No.248 of 2021)

2. Mrs. X ... Respondents.

...

Ms Deepa Panicker, Legal Aid appointed Advocate for the
applicant.

Mr Arfan Sait, APP for respondent No.1/State.

Mr Yashwardhan Tiwari Legal Aid appointed Advocate for the
complainant/respondent No.2.

Coram : R. N. Laddha, J.

Date : 2 May 2024.

P.C. :

Mr Yashwardhan Tiwari is appointed as an Advocate to
espouse the case of the complainant/respondent No.2.

2. Heard learned Counsel for the parties.

3. By this application, the applicant is seeking bail in connection with CR No.248 of 2021 registered at Bhiwandi City Police Station, for the offence punishable under Sections 363, 376(D), 376(I), 376(2) L of the Indian Penal Code and Sections 4, 6, 9(k), 10 of the Protection of Children from Sexual Offences Act, 2012 (for short, the 'POCSO Act').

4. It is alleged that the victim girl has known the accused for the last two years from the date of incident. The accused had a friendly relationship with the victim's family. On 20.07.2021, around 3:30 p.m., while the victim was on her way to the tailor shop, the accused approached her, asked her to accompany him, and gifted her new clothes. The applicant/accused then took her to Kalyan Railway Station and travelled by train to Nanded, where he committed sexual intercourse with her on July 21 and 22, 2021. Following this, he sent her back by railway and threatened her not to disclose the incident, warning that he would kill her family members. Additionally, he also assured her that he would marry her.

5. Mr Yashwardhan Tiwari, learned Counsel appearing on behalf of the applicant, submits that the applicant has been in jail since 30.07.2021. The investigation has concluded, and

the charge sheet has been filed. The victim voluntarily accompanied the applicant/accused and is matured enough to understand the consequences. The trial is not yet started. The applicant has no criminal antecedents. There is no possibility of applicant fleeing away or tampering with witnesses, and if he is enlarged on bail he will not misuse the liberty of bail.

6. Mr Arfan Sait, the learned APP appearing for the State, and Ms Deepa Panicker, learned Counsel for the second respondent, in unison, submit that the offence is serious. The victim was a minor, while the applicant was 36 years old at the time of the incident. Family relations existed between the victim's family and the applicant. Against the victim's wishes, the applicant took her and engaged in sexual relations.

7. This Court has perused the application, charge sheet, and accompanying documents. It reveals from the record that the incident in question occurred on 20, 21 and 22 July 2021. The victim was only 15 years old at the time of the alleged incident. The ground that the victim voluntarily accompanied the applicant is not relevant, since her consent is immaterial. This aspect is also highlighted in *'X (Minor) vs. The State of*

Jharkhand and Anr.¹ Moreover, there appears to be sufficient material connecting the applicant to the present crime. In the statement recorded u/s 161 CrPC, the victim specifically mentioned that the accused took her to Nanded, forcibly engaged in sexual relations, and then threatened her not to disclose the incident else to harm her family members.

8. In view thereof, no case for grant of bail is made out. Resultantly, the bail application is rejected.

9. In the facts and circumstances, the trial court is requested to expedite the hearing of the trial.

[R. N. Laddha, J.]

1 Cri.Appeal No.263 of 2022.