

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

BAIL APPLICATION NO.1217 OF 2024

Mayur Yuvraj Gaikwad

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Ms. Seema Dighe a/w Mr. Shubham Sane h/f Priyal G. Sardar, for the Applicant.

Ms. S. M. Yadav, APP, for the Respondent No.1-State.

Ms. Shaheen Kapadia, for Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.

DATED: 10th MAY 2024

P. C.:

1. Heard Ms. Dighe, learned Counsel for the Applicant, Ms. Yadav, learned APP for the Respondent No.1-State and Ms. Kapadia, learned Counsel for Respondent No.2.

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

1	C.R. No.	236 of 2022
2	Date of registration of F.I.R.	20/04/2022
3	Name of Police Station	M.I.D.C. Bhosari, District-Pune
4	Sections invoked	376, 376(2)(n), 354-A & 354-D of the <i>I.P.C., 1860</i> ; 3, 4, 5(j)(ii), 8, 11 & 12 of the <i>POCSO Act, 2012</i> .
5	Date of incident	01/01/2019-01/01/2022
6	Date of arrest	04/05/2022
7	Date of filing Charge-sheet	30/06/2022

3. As per the prosecution case, the Applicant had sexual relations with the victim by giving false assurances to her that he would marry her.

4. It is the contention of Ms. Dighe, learned Counsel for the Applicant that at the relevant time, the age of the Applicant was 22 years. She submitted that at that time, the victim was 17 years and 11 months old. She states that the Applicant and the victim developed a romantic relationship and sexual relations were consensual. She submitted that the Applicant was old enough to understand the consequence of her actions. She submitted that the Applicant is a young man. There are no antecedents against the Applicant and therefore the Bail Application be allowed.

5. On the other hand, Ms. Yadav, learned APP and Ms. Kapadia, learned Counsel appointed to represent the Respondent No.2, strongly opposed the Bail Application. Both of them pointed out the statement of the victim dated 19th April 2022 (Page Nos.52 to 55). They submitted that the sexual intercourse by the Applicant with the victim was without the victim's consent. Both of them submitted that the Applicant was making false assurances to the victim that he would marry her and that on such false assurances, he had sexual relations with the victim. Both of them also pointed out the medical history provided by the victim to

the Medical Officer (Page No.74) where also the victim has stated that the sexual intercourse was without her consent. Therefore, both of them submitted that the Bail Application be rejected.

6. Ms. Yadav, learned APP points out the D.N.A. Report and states that the same shows a positive match.

7. Perusal of the record shows that F.I.R. was lodged on 20th April 2022 and the Applicant was arrested on 4th May 2022. It is an admitted position that investigation has been completed and that Charge-sheet was filed on 30th June 2022. As per the Charge-sheet, there are a total of 21 witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even the charge is also not framed. Thus, the trial will take a considerably long time to conclude.

8. *Prima facie*, at the relevant time, the victim was 17 years and 11 months old and she was old enough and capable of understanding the consequences of her actions. The Applicant was also a young man aged 22 years at the relevant time.

9. Ms. Dighe, learned Counsel for the Applicant states that as most of the witnesses are from District-Pune, the Applicant will not enter District-Pune till the conclusion of the trial except for attending the trial. She submitted that the Applicant will therefore reside at C/o. Sayaji Eknath Lokhande, Dahiwadi, Mhaswad, Taluka-Man, District-Satara.

10. The Applicant does not have any criminal antecedents.
11. The Applicant does not appear to be at risk of flight.
12. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
13. In view thereof, the following order:

ORDER

- (a) The Applicant-Mayur Yuvraj Gaikwad be released on bail in connection with C.R. No.236 of 2022 registered with the M.I.D.C. Bhosari, District-Pune on his furnishing P.R. Bond of Rs.50,000 /- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Pune district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Mhaswad Police Station, District-Satara once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Mhaswad Police Station, District-Satara to communicate details thereof to the Investigating Officer.
- (e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

14. The Bail Application is disposed of accordingly.

15. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]