

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

CRIMINAL BAIL APPLICATION NO. 1374 OF 2024

Pramod Vishwakarma s/o Santram
Vishwakarma

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ashok Kumar Dubey a/w Mr. Anil Kumar Pandey i/by Savj Law Solutions, for the Applicant.

Mr. Prasanna Malshe, APP, for Respondent-State.

Ms. Shreya Anuwal for Respondent No.2.

CORAM : MADHAV J. JAMDAR, J.

DATED : 29th April 2024

P. C.

1. Heard Mr. Dubey, learned Counsel for the Applicant, Mr. Malshe, learned APP for the Respondent-State and Ms. Anuwal, learned Counsel appointed to represent the interests of the 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.	75 of 2022
2.	Date of registration of F.I.R.	1 st April 2022
3.	Name of Police Station	Uran, District-Raigad
4.	Sections invoked	354(D), 363, 376 of <i>I.P.C., 1860</i> ; and Sections 4, 6, 8 and 9 of <i>Protection of Children from Sexual Offences Act, 2012</i> .

5.	Date of incident	22 nd March 2022
6.	Date of arrest	11 th April 2022
7.	Date of filing Charge-sheet	9 th June 2022

3. As per the prosecution case, the victim (age 17 years and 11 months) was in a relationship with the Applicant. The Applicant is related to the victim. They were having a conversation on phone and an amount of Rs.1,500/- was sent by the Applicant to the account of her cousin- Dipak Chandrakant Katkari on 20th March 2022. Said Dipak Katkari gave Rs.1,400/- out of the said amount to the victim. On 22nd March 2022, the victim left her house at Belwadi, District Raigad with said amount of Rs.1,400/- and went to Panvel Railway Station and thereafter as per the prosecution case, as the Applicant had threatened the victim, she went to Rajkot alongwith the Applicant and reached there on 23rd March 2023. Thereafter they stayed in a room of his friend. They went there in a temple and performed the marriage and thereafter they went to Balrampur, Uttar Pradesh and thereafter at Mathura Bazar, Balrampur, Uttar Pradesh and stayed at his sister's house. In the meanwhile an F.I.R. was lodged on 1st April 2022 and the Police apprehended the Applicant on 11th April 2022.

4. It is the submission of Mr. Dubey, learned Counsel for the Applicant that there is a relationship between the Applicant and the

victim. He submitted that the age of the victim was 17 years and 11 months when the incident took place. He submitted that the victim herself came from her house to Panvel and went with the Applicant to different places. He submitted that the victim was old enough to understand the consequences of her actions. He submitted that there are no antecedents and therefore the Bail Application be allowed.

5. On the other hand, Mr. Malshe, learned APP and Ms. Anuwal, learned Counsel appointed to represent the interest of the Respondent No.2 vehemently opposed the Bail Application. Both of them submitted that although the material on record shows that the victim was in a relationship with the Applicant, however, the victim went to Panvel and from Panvel she was taken to Rajkot and thereafter to Uttar Pradesh, all by threatening her. Both of them submitted that the Bail Application be rejected.

6. Perusal of the record shows that the F.I.R. was lodged on 1st April 2022, the Applicant was arrested on 11th April 2022 and the Charge-sheet was filed after completion of investigation on 9th June 2022. There is no progress in the trial and even the Charge is not framed. Accordingly, the trial will take a considerably long time.

7. *Prima facie*, there is substance in the the contentions raised by the learned Counsel for the Applicant that the Applicant and the victim were in a relationship. The age of the victim was 17 years and 11

months. The victim in her statement recorded under Section 164 of the Cr.P.C. stated that physical relationship between the Applicant and the deceased was consensual. Although it is clear that at the time of relationship, the victim was a minor, however, she was of an undestandable age (17 years, 11 months) and she was knowing the consequences of her actions..

8. The Applicant is a young person aged 21 years.
9. The Applicant does not appear to be at risk of flight.
10. The Applicant does not have any criminal antecedents.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:-

ORDER

(a) The Applicant - Pramod Vishwakarma s/o Santram Vishwakarma be released on bail in connection with C.R. No.75 of 2022 registered with the Uran Police Station, District - Raigad on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) 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.

(c) The Applicant shall report to the Uran Police Station, District - Raigad as and when called by Police until the conclusion of the trial.

(d) 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.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. 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.]