

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

BAIL APPLICATION NO. 1560 OF 2024

Abraham Kakaso Hegde

.Applicant

Versus

The State of Maharashtra & Anr.

.Respondents

Mr Kedar Patil a/w Mr Pratik Tare & Ms Sakshi Kadam for Applicant.
Mr P P Deokar APP for Respondent No. 1 – State.
Mr Shreyas Barsawade (Through VC) for Respondent No. 2.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 26.04.2024**

P. C.

1. Heard Mr. Patil, learned Counsel for the Applicant, Mr. Deokar, learned APP for Respondent No.1-State and Mr. Barsawade, learned Counsel appointed to represent the interests of 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.	441 of 2023
2. Date of registration of F.I.R.	13.12.2023
3. Name of Police Station	Ichalkaranji
4. Sections invoked	326, 323, 354(D), 506, 510 r/w. 34 of the I.P.C., 1860; 12 of the POCSO Act, 2012.
5. Date of incident	12.12.2023
6. Date of arrest	13.12.2023
7. Date of filing of Charge-sheet	07.02.2024

3. As per the prosecution case, the Applicant and the child in

conflict with law are close friends. The said child in conflict with law wanted to enter into a relationship with the victim who is the sister of the Complainant. The Injured is the friend of the Complainant.

4. As per the prosecution case, at 11.30 a.m. on 12.12.2023, when the victim was returning to her house after completion of her college lectures, the Applicant as well as the child in conflict with law came on a motorcycle and threatened the victim that she would be abducted. Thereafter, on the very day i.e. at 8.00 p.m. on 12.12.2023, both the Applicant and the child in conflict with law again came on a motorcycle and they assaulted the injured with a scythe (koyta). Therefore, a scuffle broke out. At that time, the present Applicant snatched the scythe from the hands of the child in conflict with law and in fact, when he was assaulting the injured, the said child in conflict with law sustained injuries.

5. It is the contention of Mr. Patil, learned Counsel for the Applicant that the present Applicant had no motive to commit the offence in question. He submitted that the injuries on the child in conflict with law are simple in nature. He submitted that in the facts of the case, the provisions of the *Protection of Children from Sexual Offences Act, 2012* ("POCSO Act") are not applicable.

6. On the other hand, Mr. Deokar, learned APP for Respondent No.1-State vehemently opposed the Bail Application. He submitted that there is one antecedent being C.R. No.259 of 2023 for the offence punishable under Section 379 of the Indian Penal Code, 1860

as the motorcycle used in the offence is stolen property. He, therefore, prayed that the Bail Application be rejected.

7. Mr. Barsawade, learned Counsel appointed to represent the interests of Respondent No.2 submitted that the incident has taken place in two parts. One incident has taken place in the morning of 12.12.2023 and the other incident has taken place in the evening. He submitted that insofar as the first part is concerned, the victim has been threatened that she would be abducted. Insofar as the second part is concerned, the injured has been assaulted. He submitted that the Applicant had actively participated in the incident. He therefore submitted that the Bail Application be rejected.

8. A perusal of the record shows that the incident has taken place on 12.12.2023. The F.I.R. was registered on 13.12.2023. The Applicant was arrested on 13.12.2023. Charge-sheet was filed on 07.02.2024. Till date, there is no progress in the trial except for framing of charge. As per the Charge-sheet, the prosecution proposes to examine 15 witnesses, out of which 4 witnesses have already been examined.

9. This is a case wherein investigation is complete and Charge-sheet is filed. The Applicant is a young man aged 21 years. There is one antecedent, being C.R. No.259 of 2023 for the offence punishable under Section 379 of the Indian Penal Code, 1860. However, in that case, the Applicant was not arrested.

10. Mr. Barsawade, submitted that if this Court is inclined to grant

bail to the Applicant, then stringent conditions be imposed including that the Applicant shall not enter Taluka – Hatkanangale, District – Kolhapur, as there is an apprehension that the victim and the witnesses may be threatened.

11. In view of the statement made by Mr. Barsawade, learned Counsel for Respondent No. 2, Mr. Patil, learned Counsel for the Applicant submitted that the Applicant shall not enter Taluka – Hatkanangale, District – Kolhapur and will reside at village – Yadrav, Taluka – Shirol, District – Kolhapur and will attend the Shahapur Police Station.

12. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

13. The Applicant does not appear to be at risk of flight.

14. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

15. In view thereof, the following order:-

ORDER

(a) The Applicant - Abraham Kakaso Hegde be released on bail in connection with C.R. No.441 of 2023 registered with the Ichalkaranji Police Station, District – Kolhapur on his furnishing PR. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter village – Ichalkaranji 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 Shahapur Police Station, Ichalkaranji once every week, on Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shahapur Police Station, Ichalkaranji 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.

16. The Bail Application is disposed of accordingly.
17. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the prima facie observations made in this order.
18. This Court places on record its appreciation of the assistance rendered by Mr. Barsawade, learned Counsel appointed to represent the interests of Respondent No.2 and the professional fees be paid to him as per rules.

[MADHAV J. JAMDAR, J.]