

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

BAIL APPLICATION NO. 1921 OF 2024

Sidheshwar Hari *alias* Haridas Jadhav .Applicant

Versus

The State of Maharashtra & Anr. .Respondents

Ms. Shubhangi Parulekar, Advocate, for Applicant.
Mr. S. S. Chaudhari, APP, for Respondent No.1 – State.
Ms. Saili Dhuru, Advocate, for Respondent No. 2.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 06.05.2024**

P. C.

1. Heard Ms. Parulekar, learned Counsel for the Applicant, Mr. Chaudhari, learned APP for Respondent No.1 – State and Ms. Dhuru, learned Counsel for Respondent No. 2.

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.	686 of 2023
2.	Date of registration of F.I.R.	17.11.2023
3.	Name of Police Station	Solapur Taluka
4.	Sections invoked	373(3), 376(2)(J), 323 r/w. 34 of the I.P.C., 1860; 4, 8 and 12 of the POCSO Act, 2012; 9, 10 and 11 of the Prohibition of Child Marriage Act, 2006.
5.	Date of incident	30.05.2023
6.	Date of arrest	23.11.2023
7.	Date of filing of Charge-sheet	January, 2024

3. As per the prosecution case, age of the victim at the relevant time was 14 years and she was involved in a romantic relationship with one Sahil Mohammad Shaikh. As the family of the victim came to know about the same, they got the victim married with the present Applicant on 30.05.2023. The victim cohabited with the Applicant for about two months. Thereafter, she came to her parents house on the occasion of 'Rakhi Purnima' and as the family was to send the victim to the house of the Applicant, the victim fled with said Sahil Mohammad Shaikh on 07.09.2023 and they stayed at Dhavalas, Madha for about two months. On 11.09.2023, mother of the victim lodged a missing report and thereafter, a crime was registered bearing C. R. No.536 of 2023 and Sahil was arrested. Thereafter, the present F.I.R. was lodged on 17.11.2023 bearing C. R. No.686 of 2023.

4. It is the contention of Ms. Parulekar, learned Counsel for the Applicant that the Applicant was told that the victim is an adult. Therefore, the Applicant married the victim. She submitted that there are in all ten accused persons. Victim's parents-Accused Nos.3 and 4 have been granted Anticipatory Bail by the learned Sessions Judge, Solapur. Accused No.5 is the sister-in-law of the victim and she has also has been granted Anticipatory Bail. Accused No.2. i.e. mother of the victim and Accused Nos.6 to 10 have been released as per the provisions laid down under Section 299 of the CrPC. She therefore

submitted that the Applicant is the only accused who is incarcerated. She submitted that the Applicant was totally unaware about the fact that the victim was a minor at the time of their marriage. She submitted that the statement of the victim shows that the victim was in a romantic relationship with Sahil Mohammad Shaikh and the mother of the victim i.e. Accused No.2 knowingly got the victim married to the present Applicant due to the said relationship. She submitted that close relatives of the victim i.e. Accused Nos.2 and 5 to 9 not informed the Applicant about the age of the victim as well as her relationship with said Sahil. She submitted that after the marriage, on 07.09.2023, the victim fled with Sahil and went to Barshi. Till the lodging of the F.I.R., the victim was residing with Sahil. She submitted that the Applicant is incarcerated since about six months.

5. Mr. Chaudhari, learned APP vehemently opposed the Bail Application. He submitted that on the date of the incident, the victim was only 13 years 11 months and 28 days old. Therefore, the Bail Application be rejected.

6. Ms. Dhuru, learned Counsel for Respondent No.2 submitted that Respondent No.2 along with her mother is present in Court and that they have no objection if the Bail Application is allowed.

7. Perusal of the record shows that the F.I.R. was lodged on 17.11.2023. The Applicant was apprehended on 23.11.2023. The Charge-sheet was filed in or about January 2024. As per the Charge-

sheet, there are 13 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 yet.

8. *Prima facie*, there is substance in the contention of learned Counsel for the Applicant that the Applicant was totally unaware about the fact that the victim was a minor at the time of her marriage with the Applicant.

9. Perusal of the record and particularly the statement of the victim recorded under Section 164 of the CrPC shows that the victim is mature enough to understand the consequences of her actions. The prosecution case itself shows that the victim was in a relationship with Sahil. Therefore the family members of the victim got her married to the present Applicant on 30.05.2023. The victim fled with Sahil on 07.09.2023. Therefore, the position on record shows that although the victim is a minor, she was understanding the consequences of her actions. There are no antecedents.

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

11. The Applicant does not have any criminal antecedents.

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

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

14. In view thereof, the following order:

ORDER

(a) The Applicant - Sidheshwar Hari *alias* Haridas Jadhav be released on bail in connection with C. R. No.686 of 2023 registered with the Solapur Taluka Police Station, District- Solapur 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 Solapur taluka Police Station, District – Solapur as and when called for by the Investigating officer.

(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 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.

15. The Bail Application is disposed of accordingly.

16. 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.]