

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

CRIMINAL BAIL APPLICATION NO. 1518 OF 2023

Ganesh Dyandev Jadhav

...Applicant

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Paras Yadav, Advocate for the Applicant.
Ms. S.S. Kaushik, APP for Respondent- State.
Ms. Ashwini Acharya for Respondent No.2.

CORAM : MADHAV J. JAMDAR, J.

DATED : 27th February 2024

P. C.

1. Heard Mr. Yadav, learned Counsel appearing for the Applicant, Ms. Kaushik, learned APP appearing for the Respondent-State and Ms. Ashwini Acharya, learned Counsel appearing 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.	247 of 2022
2.	Date of registration of F.I.R.	13th September 2022
3.	Name of Police Station	Gandhinagar Police Station, Kolhapur, District-Kolhapur
4.	Section/s invoked	363, 366, 376(2)(f)(i)(n) of <i>Indian Penal Code, 1860</i> ;

		4, 6, 8 and 12 of the <i>POCSO Act, 2012</i> .
5.	Date of incident	12.09.2022 - 13.09.2022.
6.	Date of arrest	16th September 2022.
7.	Date of filing of Charge-sheet	9th November 2022

3. Mr. Yadav, learned Counsel appearing for the Applicant submitted that the Applicant was arrested on 16th September 2022 and till date there is no progress in the trial. He submitted that as per the Charge-sheet, there are about 26 witnesses proposed to be examined by the prosecution. Therefore the trial will take a considerably long time. He pointed out the statement of victim recorded under Section 164 of *Code of Criminal Procedure, 1973* and submitted that the said statement shows that there is no commission of crime as alleged by the prosecution. He submitted that therefore, the Applicant be enlarged on bail. He submitted that the Applicant is the maternal-uncle of the victim and in fact as the Applicant wanted to get married with the victim, the mother of the victim i.e. the sister of the Applicant has consented for the same and thereafter she has revoked her consent. Therefore, the relations were consensual.

4. On the other hand, learned A.P.P. and Ms. Ashwini Acharya, learned Counsel appearing for Respondent No.2

strongly opposed the Bail Application. Both of them submitted that the statement recorded under Section 164 *Cr.P.C., 1973* shows that the victim is being pressurised. Both of them submitted that the contention of the Applicant that the relationship between the Applicant and the victim was consensual is not much significant as the age of the victim is 14 years and 5 months. They submitted that if the Applicant is released on bail, he will influence the prosecution witnesses. Ms. Kaushik, learned APP submitted that the offence is under Section 6 of the *Protection of Children from Sexual Offences Act, 2012* and is punishable with imprisonment for not less than 20 years and therefore the Applicant be not enlarged on bail.

5. Perusal of the record shows that the offence was registered on 13th September 2022, the Applicant was arrested on 16th September 2022 and Charge-sheet was filed on 9th November 2022. Till date, there is no progress in the trial.

6. The trial is likely to take a considerably long time.

7. Perusal of the statement recorded under Section 164 *Cr.P.C., 1973* shows that the victim has not supported the case of the prosecution. Even the medical evidence also does not support the case of the prosecution. The apprehension that the Applicant will influence the prosecution witnesses and pressurise them can be taken care of by imposing stringent

conditions.

8. Mr. Yadav, learned Counsel appearing for the Applicant states that several witnesses are from District-Kolhapur and the Applicant is a resident of Vadgaon Shindodi, Taluka-Shrigonda, District-Ahmednagar, the Applicant will not enter Kolhapur-district except for attending the trial.

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. In view thereof, the following order:-

ORDER

(a) The Applicant-Ganesh Dyandev Jadhav be released on bail in connection with C. R. No.247 of 2022 registered with the Gandhinagar Police Station, Kolhapur, District-Kolhapur on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the Kolhapur 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 Shrigonda Police Station, District-Ahmednagar once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shrigonda Police Station, District - Ahmednagar 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.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, uninfluenced by the observations made in this Order.

14. This Court places on record its appreciation for the valuable assistance rendered by Ms. Ashwini Acharya, learned Counsel. High Court Legal Services Authority, Mumbai to take steps to pay professional fees to her as per rules and her name be included on the Panel.

[MADHAV J. JAMDAR, J.]