

Dusane

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

CRIMINAL BAIL APPLICATION NO.1526 OF 2023

Rajendra Dinkar Bagade ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

Mr. Anvil S. Kalekar for Applicant

Ms. Veera Shinde, APP for the Respondent-State

CORAM: MADHAV J. JAMDAR, J.

DATE: 17th JANUARY 2024

P.C.

1. Heard Mr. Kalekar, learned Counsel appearing for the Applicant and Ms. Shinde, learned APP appearing for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* seeking bail in the offence punishable under Sections 363, 366-A, 376 (2) (j) (1) (n), 109, 506 read with 34 of the *Indian Penal Code, 1860* and Sections 4, 6, 8 and 12 of the *Protection of Children from Sexual Offences Act, 2012* registered with the Walchandnagar Police Station, District-Pune vide C. R. No.412 of 2022.

3. It is the main contention of the learned Counsel appearing for the Applicant on the basis of the statement of the informant

i.e. the mother of the victim that the incident has occurred in September 2022 and the Applicant during the said period was incarcerated and therefore is not involved in the offence in question. In the present case, the Applicant was taken into custody on 15th September 2022 when he was already in custody in C.R. No. 158 of 2022. However, perusal of the investigation papers including the F.I.R. shows that the informant i.e. the mother of the victim came to know about the series of incidents on 9th September 2022 which has began in or around Diwali of 2021 i.e. around October-November 2021.

4. The Sonography report dated 14th September 2022 shows that there is a single live intra-uterine foetus of average gestational age of 26 weeks $\pm$ 2 weeks.

5. As per the prosecution case, the Applicant by threatening the physically disabled victim that her parents would be sent to jail, forced the victim to have non-consensual sexual intercourse with the Accused No. 2 - Anil Nalavade. The age of the victim at the time of the said offence in question was about 12 years.

6. The offence is extremely serious in nature. Although as per the F.I.R., the informant i.e. the mother of the victim came to know about the same on 9th September 2022, the incident has occurred much earlier. In fact the F.I.R. also records that the said offence in question began in or around Diwali of 2021 i.e. around

October-November 2021.

7. Thus, there is no substance in the contention that when the incident has occurred, the Applicant was already incarcerated in an other case. It is also to be noted that the Applicant has several antecedents. There are a total of 11 cases lodged against the Applicant under Section 393 of *Indian Penal Code, 1860*. In the said cases, the Applicant was arrested and subsequently enlarged on bail after a few days.

8. Therefore, this is not a fit case for granting bail to the Applicant.

9. Accordingly, the Bail Application is rejected and disposed of as such.

10. However, the Trial Court is requested to expedite the trial.

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[MADHAV J. JAMDAR, J.]