

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2689 OF 2023**

Sachin *alias* Balu Muktaram Jadhavar

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Ashraf Ali Akhtar Shaikh, Advocate, for the Applicant.
Mr. Sameer M. Mangaonkar, APP, for Respondent No.1-State.
Mr. Suyash Khose h/for Faizan I. Shaikh for Respondent No.2.
Mr. Taktode, PSI, Hinjawadi Police Station, present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 19th March 2024

P. C.

1. Heard Mr. Shaikh, learned Counsel for the Applicant, Mr. Mangaonkar, learned APP for the Respondent-State and Mr. Suyash Khose a/w Mr. Faizan Shaikh 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.	1182 of 2022
2.	Date of registration of F.I.R.	5th December 2022
3.	Name of Police Station	Hinjawadi, District-Pune
4.	Section/s invoked	376(2)(n) of <i>I.P.C., 1860</i> ; and 4,5(j)(ii), 5(1) & 6 of the <i>Protection of Children from Sexual Offences Act, 2012</i> .
5.	Date of incident	5th December 2022
6.	Date of arrest	3rd February 2023
7.	Date of filing Charge-sheet	28th July 2022

3. As per the prosecution case, the Applicant was already married and he was in a relationship outside of marriage with the victim. As per the statement of the victim, she married the applicant in May 2021 and she was pregnant and when her sonography was performed, on the basis of the documents, it was found that she was a minor and therefore, the offence was registered.

4. Mr. Ashraf Ali, learned Counsel for the Applicant submitted that the sexual relationship between the Applicant and the victim is consensual. He submitted that at the relevant time, the age of the Applicant was about 17 years and therefore she was having the ability to understand the consequences of her action. He submitted that the Applicant was arrested on 3rd February 2023 and the Charge-sheet was filed on 28th July 2023 and therefore, the Applicant be granted bail.

5. On the other hand, Mr. Mangaonkar, learned APP vehemently opposed the Bail Application and submitted that although the statement of the victim dated 5th December 2022 states that the relationship was consensual and in fact the Applicant and victim got married, yet the Applicant was a minor aged 17 years and therefore, an offence has been committed. He therefore submitted that the Bail Application be rejected.

6. Mr. Khose, learned Counsel for the Respondent No.2 submitted that the statement dated 5th December 2022 of the victim is very clear

and the relations were consensual. He submitted that the Applicant is now an adult He pointed out the School Leaving Certificate at page-117, according to which, the Applicant is about 19 years old. He submitted that the Respondent No.2 has no objection to grant of bail.

7. The Applicant does not appear to be at risk of flight.
8. The Applicant does not have any criminal antecedents.
9. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
10. In view thereof, the following order:-

ORDER

(a) The Applicant - Sachin *alias* Balu Muktaram Jadhavar be released on bail in connection with C. R. No.1182 of 2022 registered with the Hinjawadi Police Station, District - Pune on his furnishing P. R. Bond of Rs.10,000/- with one or two 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 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.

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

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

11. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]