

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

BAIL APPLICATION NO.3926 OF 2023

Mukund Popat Pingle

.Applicant

Versus

The State of Maharashtra & Ors.

.Respondents

Mr. Premkumar Mishra, Advocate (Through VC), a/w. Varuna Gade & Deepak Kasbe, for the Applicant.

Mr. PP Malshe, APP, for the Respondent No.1-State.

Ms. Saba Shaikh, for the Respondent No.2.

Mr. Prasanna Jarhad, API-Chakan Police Station, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 08.05.2024

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1. Heard Mr. Premkumar Mishra, learned Counsel for the Applicant, Mr. Malshe, learned APP for the State and Ms. Saba Shaikh, learned Counsel appointed to represent 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.	765 of 2019
2.	Date of registration of F.I.R.	06.05.2019
3.	Name of Police Station	Chakan, District-Pune
4.	Sections invoked	376(2)(f), 376(2)(i), and 506 of the I.P.C.,1860; 4, 5(1), 5(n) and 6 of the POCSO Act, 2012.
5.	Date of incident	04.05.2017 to 05.05.2019
6.	Date of arrest	31.05.2020
7.	Date of filing of Charge-sheet	29.07.2020

3. The Applicant is the step-father of the victim. As per the prosecution case, the Applicant sexually assaulted the victim in the year 2017-18 and therefore there was a dispute between the Applicant and his wife i.e. the mother of the victim. Therefore, the victim and her mother left the house of the Applicant. However, the Applicant called his wife after 8-9 days and asked for forgiveness and assured his wife that he would not repeat such activities. It is the prosecution case that in spite of this, the Applicant again sexually assaulted the victim on multiple occasions. The statement of the victim under Section 164 of CrPC was recorded on 18th June 2020 and the same shows that the victim was in a relationship with one Vishal Pande who had come to the Applicant's residence. The Applicant, after returning to his house, found the victim with Vishal Pande. In fact, the statement of Vishal Pande recorded on 6th May 2019 shows that the Applicant called the father and other relative of Vishal at Chakan, Pune on 3rd May 2019 and he insisted that due to the said relationship of the victim with Vishal, and victim should be immediately taken to their house and it should be affirmed on a stamp paper in writing that Vishal Pande would marry the victim after she turns 18 years old. Therefore, on 4th May 2019 at the instance of the Applicant, the family members of Vishal Balaji Pande permanent resident of Dagadvadi, Taluka-Bhokardar, District-Jalana, took the victim along with them to Ahmednagar where they

admitted the victim in a Social Organisation Child Line and thereafter an F.I.R. was lodged on 6th May 2019 against the Applicant.

4. It is the contention of Mr. Mishra, learned Counsel for the Applicant that the false case has been filed against the Applicant because the Applicant had caught the victim red-handed with Vishal Pande. He submitted that in any case, the Applicant was arrested on 31st May 2020. The Charge-sheet was filed on 29.07.2020 and till date there is no progress in the case. Mr. Mishra further submitted that there is complete variation in the contents of the F.I.R. and statement of Vishal Pande dated 6th May 2019. He therefore submitted that the Applicant be released on bail.

5. On the other hand, Mr. Malshe, learned APP and Ms. Saba Shaikh, learned Counsel appointed to represent Respondent No.2 strongly opposed the bail Application. Both of them submitted that the victim is a minor and the Applicant has taken advantage of the situation. It is submitted that if the Applicant is released on bail, there is a likelihood of the Applicant influencing the prosecution witnesses. Both of them therefore submitted that the bail Application be rejected.

6. Perusal of the record shows that the F.I.R. was lodged on 6th May 2019, the Applicant was arrested on 31st May 2020 and the Charge-sheet was filed on 29th July 2020. As per the Charge-sheet there are 13 witnesses proposed to be examined by the prosecution. There is no progress in the trial till date and even the Charge is also

not framed yet. The Applicant is incarcerated since about 5 years.

7. The Applicant does not have any criminal antecedents.
8. Mr. Mishra, learned Counsel for the Applicant states that as several witnesses are residing in Pune district, the Applicant will therefore not enter Pune district and that the Applicant will reside at C/o. Namdev Shankar Shinde, Ganesh Bhoir Chawl, Room No.4, Chota Mhasoba maidan, Chikan ghar, Kalyan – 412301.
9. Accordingly, the Applicant can be enlarged on bail by imposing strict conditions.
10. In view thereof, the following order:

ORDER

- (a) The Applicant – Mukund Popat Pingale be released on bail in connection with C.R. No.765 of 2019 registered with the Chakan Police Station, Taluka – Khed, District – Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Pune 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 Mahatma Phule Police Station, Taluka - Kalyan, District - Thane 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 Mahatma Phule Police Station, Kalyan, District-Thane, 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.

11. The Bail Application is disposed of accordingly.

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

13. This Court places on record its appreciation of the assistance rendered by Ms. Saba Shaikh, learned Counsel appointed to represent the interest of Respondent No.2. The High Court Legal Services Committee, Mumbai is requested to pay her professional fees as per rules and her name be included in the panel.

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[MADHAV J. JAMDAR, J.]