

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1787 OF 2024

Vishnu @ Deva Bhagoji Kate, Age 32 years,
Occ.Chef, R/o.Kakshminagar Hill,
Tal.Ambarnathurama, Dist.Thane,
P/At.At Post Kapade Br.
Tal.Poladpur, Dist.Raigad.
(Presently in Central Prison, Yerwada)

Applicant

versus

1. The State of Maharashtra
2. X.Y.Z.

Respondents

Mr.Kuldeep U.Nikam with Mr.Om N.Latpate and Rohit K. for
Applicant.

Mr.Rohan S.Sawant for Respondent no.2 appointed by Legal Aid.

Mr.Shreeram S.Chaudhary, APP, for State.

PSI Ashvini Tale, Chikhali Police Station, Pimpri Chinchwad, present.

CORAM : ANIL S.KILOR, J.

DATE : 8th October 2024

PC :

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.405 of 2020 registered with Chikhali Police Station, District Pune, for the offences punishable under Sections 363, 366(A), 376, 376(2)(i) of Indian Penal Code r/w Sections 3, 4, 7 and 8 of Protection of Children from Sexual Offences Act, 2012.

3. Having gone through the charge sheet and the relevant material collected by the Investigating Officer during investigation it

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is evident that the victim on her own left her parent's home and went to the father of Applicant and started staying at Ambernath where Applicant used to go and stay with her and during said stay the Applicant on many a times established physical relations with the victim. After the police have taken the victim in custody, because of the intervention of one NGO, complaint came to be lodged.

4. From the material collected by the Investigating Officer it is prima facie evident that there was a love affair and there was no force used by the Applicant either while establishing physical relations or while sending her to his father's place at Ambernath. Moreover, in the trial the evidence of victim has already been recorded but it appears that there is unlikelihood that the trial will be concluded in near future. The Applicant is in jail for more than three years.

5. Thus, considering the period of incarceration, though learned APP is strongly opposing the application, I am of the opinion that application needs to be allowed. Hence, I pass following order:

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the Applicant shall be released on bail in Crime No.405 of 2020 registered with Chikhali Police Station, District Pune, for the offences punishable under Sections 363, 366(A), 376, 376(2)(i) of Indian Penal Code r/w Sections 3, 4, 7 and 8 of Protection of Children from Sexual Offences Act, 2012 on furnishing PR.Bond of Rupees Twenty Five Thousand with one solvent surety in the like amount;
- (iii) The Applicant shall not enter into territorial jurisdiction of

Pune District till conclusion of trial, except for trial;

(iv) The Applicant shall provide his address and name of nearby Police Station to the Investigating Officer and attend said Police Station on 1st and 16th day of every month between 10.00 a.m and 11.00 a.m till conclusion of trial, except on the date of trial;

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to the victim or any person acquainted with the facts of the case, as also not tamper with the evidence;

(vi) The Applicant shall not directly or indirectly contact the Victim or her family members for any reason;

(vii) Liberty is granted to the State to apply for cancellation of bail if the applicant misuses the liberty granted or commits breach of any conditions;

(viii) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S.KILOR, J.)

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