

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2069 OF 2024

Aashif Gafur Majawar ... Applicant

V/s.

The State of Maharashtra and Anr. ... Respondents

Mr. Kuldeep Nikam with Om Latpate, for the applicant.

Ms. Priyanka Rane, APP, for the Respondent / State.

Mr. D.D. Rananaware, for the respondent no. 2.

CORAM : ANIL S. KILOR, J.

DATE : 19TH NOVEMBER, 2024.

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Date: 2024.11.21
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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 2023, registered with Shahapuri Police Station, Satara, for the offences punishable under Sections 363, 376, 376(2) (n), 376 (2) (j), 376 (A) (B), 504, 506 of the Indian Penal Code and Sections 4,6,8 and 12 of the Protection of Children from Sexual Offence Act, 2012.

3. In the present matter numerous statements of the victim were recorded from time to time including the statement under Section 164 of Cr.P.C. In every statement, she changed her version. Initially, all the allegations about sexual assault were against co-

accused Ashish then she implicated the applicant and then again she made allegation against Ashish and in 164 statement she made allegations against both the accused persons. There is no consistency in the story narrated by the victim who was 11 years and 8 months old at the time of lodging of the report.

4. As far as the applicant is concerned, it is the case of the victim that while she was on the bus stand and weeping, one old lady came there and she took the victim to her home so that she could contact victim's parents and hand over her to them. It is alleged that while staying with that old lady the applicant committed sexual assault with her. The applicant alleged to be the son of the said old lady.

5. In the above referred backdrop, though the medical report shows that the victim suffered penetrative sexual assault, in view of major discrepancy in the statements of the victim and as there is no consistency in the story of the victim, prima facie, it creates doubt about the veracity of the prosecution story.

6. In the circumstances, considering the fact that the applicant is in jail from last more than 1 year and he is a young boy of 25 years, I am of the opinion that the applicant is entitled for grant of bail.

7. In the circumstances, though the learned counsel for the respondent no. 2 and the learned APP have strongly opposed the application, I pass the following order:

ORDER

- i) Criminal application is allowed;

- ii) It is directed that the applicant shall be released on bail in Crime No.405 of 2023, registered with Shahapuri Police Station, Satara, for the offences punishable under Sections 363, 376, 376(2) (n), 376 (2) (j), 376 (A) (B), 504, 506 of the Indian Penal Code and Sections 4,6,8 and 12 of the Protection of Children from Sexual Offence Act, 2012, on furnishing P.R.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;
- iii) The applicant shall not enter into the territorial jurisdiction of Satara, except for attending the trial;
- iv) The applicant shall attend the Sangli City Police Station on 1st day of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;
- v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- vi) Liberty is granted to the State to apply for cancellation of bail in case of any breach of condition or misuse of liberty by the applicant.
- vii) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted by the trial Court.

8. The application is disposed of .

(ANIL S. KILOR, J)