

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

**CRIMINAL BAIL APPLICATION NO. 2542 OF 2024**

Avinash Sadashiv More

...Applicant

**Vs.**

The State of Maharashtra and Others

...Respondents

Mr. Aniket Nikam i/b Mr. Amit Icham, Advocate for Applicant.

Mr. Ghule Sahil Satyawar, Advocate for Respondent No. 2.

Ms. S.M. Yadav, APP for State-Respondent.

**CORAM:- ANIL S. KILOR, J.**

**DATED:- 18<sup>th</sup> NOVEMBER, 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. 1173 of 2023 registered with Sangola Police Station, Solapur, for the offences punishable under Sections 363, 366 and 376(2) of the Indian Penal Code, 1860 and Section 4, 8 and 12 of the 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 the investigation, it appears that there was a love affair between the applicant and the victim. The victim was more than 16 years of age on the date of the incident and she was sufficiently mature to understand the consequences of her

every action. From the complaint itself, it is evident that it is prima facie evident that she on her own went with the applicant in a lodge where the alleged incident of penetrative sexual assault was committed by the applicant.

4) Thus, considering the nature of allegations against the applicant and the fact that there appeared to be a love affair between the applicant and the victim and further considering the judgment of the '*Nitin Damodar Dhaberao Vs State of Maharashtra, through Police Station Office of Police Station and Anr.*'<sup>1</sup> while considering the reasons for granting bail has observed thus:

*"6. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. There is no dispute as to the fact that applicant is arrested on 30.08.2020 and there is no progress in the trial though charge-sheet is filed on 26.10.2020. As far as merit is concerned, admittedly victim is of 13 years of age and her consent is not relevant. However, the statements which are recorded by the Investigation Officer shows that victim has left her house at her own accord on the pretext of bringing the book from friend and not returned back at home. She also joined the company of the present applicant and also admitted her love relationship with the present applicant in her statement. From her statement it reveals that, she stayed along with the present applicant at various places and not made any grievance as she was taken by the present applicant by using some force. Thus it is apparent that, out of the love affair, she joined the company of the present applicant. The applicant is also of a tender age of 26 years and out of love affair they come together. It seems that, the alleged incident of sexual relationship is out of the attraction between the two young persons and it is not the case that applicant has subjected the victim for a sexual assault out of lust. Considering the fact that, though charge-sheet is filed long back in the year 2020 and there is no progress in the*

*trial and trial will take its own time for final disposal. In view of that, further incarceration of the present applicant is not required and no purpose will be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly.....”*

- 5) However, the learned APP while strongly opposed the application has argued that if the applicant is released on bail, he may pressurise the victim and tamper with the prosecution witnesses.
- 6) The learned Counsel for respondent No. 2 reiterated the said submission and prayed for rejection of the present application. As far as the apprehension expressed by the learned APP is concerned, the same can be addressed by putting stringent conditions.
- 7) Furthermore, the learned Counsel of the applicant, on instructions, makes a statement that the applicant is ready to abide any condition including not to enter into Taluka Solapur till the conclusion of the trial except on the date of trial.
- 8) In that view of the matter, I pass the following order.

**ORDER**

- (i) The Bail Application is allowed;
- (ii) It is directed that the Applicant shall be released on bail in Crime No. 1173 of 2023 registered with Sangola Police Station, Solapur, for the offences punishable under Sections 363, 366 and 376(2) of the Indian Penal Code, 1860 and Section 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

iii The applicant shall not enter into the territorial jurisdiction of Taluka Solapur till the conclusion of the trial except on the date of trial;

iv. The applicant shall provide his address and name of the nearby police station to the I.O, which he shall attend the said Police Station on 1<sup>st</sup> and 16<sup>th</sup> day of every month between 10.00 am to 11.00 am, 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 cancellation of bail if the applicant commits similar offence.;

vii. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

viii. Application stands disposed of, accordingly.

**[ANIL S. KILOR, J.]**