

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3637 OF 2024

Bablu Mewalal Bansal ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Shreyas P , Advocate, for the Applicant.
Mr. C. D. Mali, APP, for the Respondent-State.
Mr. Saurabh Butala, appointed Legal Aid Counsel for the Respondent No.2.
Mr. V. M. Dhumal, API, Hinjwadi Police Station, Pimpri Chinchwad, Pune, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 23rd OCTOBER 2024

PC:-

1. Heard Mr. Barsawade, learned Counsel for the Applicant, Mr. Mali, learned APP appearing for the Respondent No.1 and Mr. Butala, learned Counsel appointed by the High Court Legal Services Committee to represent the interest of the 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.	1195 of 2022
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2.	Date of registration of F.I.R.	09/12/2022
3.	Name of Police Station	Hinjewadi Police Station, Pune
4.	Section/s invoked	363, 376(2)(n), 376(D), 328, 324 r/w. 34 of the Indian Penal Code, 1860' 4, 5(l), 6 and 8 of the Protection of Children from Sexual Offences Act, 2012
5.	Date of arrest	06/02/2023
6.	Date of filing of Charge-sheet	03/03/2023

3. The Applicant has filed Bail Application bearing Exhibit-11 in Special Case No.228 of 2023. The said Bail Application was rejected by the learned Additional Sessions Judge, Pune by order dated 18th April 2023. The Applicant filed Bail Application before the learned Trial Court bearing Exhibit-21 and the said Application was also rejected by order dated 27th July 2023 passed by the learned Additional Sessions Judge, Pune.

4. The prosecution case is set out in order dated 18th April 2023 passed by the learned Additional Sessions Judge, Pune in paragraph Nos.4 to 8. The same reads as under:

“4] The brother of the victim has lodged report under Section 363 of the I.P.C. against unknown.

The victim is 14 years old. On 08.12.2022, when the informant was on the job, he received phone call of his mother. His mother informed him that the victim was not in the house. Therefore, the informant rushed to house. They searched the victim, but she did not find. Hence, on 09.12.2022 he lodged the report against unknown.5] The mother of the victim has also reiterated about the incident dated 08.12.2022 with regard to her daughter and made complaint against unknown.

5] The mother of the victim has also reiterated about the incident dated 08.12.2022 with regard to her daughter and made complaint against unknown.

6] The statement of the employer of the mother of the victim discloses that the mother of the victim and elder daughter were doing the work of housekeeping in Puranik Society and the victim was residing at Mhalunge labour camp, Pune. Co-accused Rangilal and his wife Minabai were doing job with this witness, who is employer, since last 6 years and their son Raju i.e. present accused was doing job of housekeeping since 6 months. Co-accused and his wife had been gone to Madhya Pradesh for fixing the marriage of their daughter and they requested to give mobile to their son Raju i.e. the accused and therefore, he had given mobile to present accused Raju by purchasing in his name. On 08.12.2022, the witness received phone call from one Bablu from Puranik site and he informed that the victim left Mhalunge labour camp without informing anyone. He searched the victim but she did not find. Further, from the same date, present accused Raju Rangilal Bansal was also not coming for the job.

7] On 10.01.2023 the victim and the present accused Raju Rangilal Bansal brought at Hinjawadi Police Station from Madhya Pradesh, Bida Chowky. The statement of the victim aged 17 years and 6 months 7 days old discloses that she got acquainted

with present accused Raju Bansal, when she was living at Labour Camp, Pune. On 08.12.2022 present accused Raju forcibly took her on the two wheeler of employer, at Radha Chowk, Mhalunge. Sunil, present accused Raju, Bablu and the victim came together. Sunil dropped them at Radha chowk and went away. Thereafter, the victim and present accused Raju went to Pune Railway Station. Bablu helped them to go to Mumbai by private vehicle. Thereafter, present accused Raju took the victim to Mumbai at the house of relative and kept the victim for one week at that place. Eight days thereafter, Bablu came to Mumbai and he took the victim and present accused Raju at the house of his sister at Chattarpur, Madhya Pradesh by train. They stayed there for 15 days. Present accused Raju was not allowing the victim to go outside the house. Thereafter, sister of Bablu dragged them out of the house. Then present accused Raju took the victim at Khadgi and stayed there for two days and then he had taken the victim at his native place Bida, Madhya Pradesh. The victim tried to elope and made hue and cry for help and at that time present accused Raju gave burn injuries to her. Present accused Raju established non consensual sexual intercourse with the victim at that place and earlier at Puranik 'F' building at Mhalunge also.

8] The victim was examined by the doctor on 11.01.2023. She disclosed the history to the doctor that on 08.12.2022, Bablu, present accused Raju, Sunil had taken her to Pune Railway Station. Thereafter, she went at the house of uncle of Bablu and stayed there for 7 days. Then parents of Bablu took her to Chhattapur and at that place, Bablu established non consensual physical relations with her and one day Raju established forcibly sexual intercourse with her. Bablu gave her burn injuries on her refusal.”

5. It is the submission of Mr. Barsawade, learned Counsel appearing for the Applicant that although the offence is registered under the Protection of Children from Sexual Offences Act, 2012, in the entire chargesheet there is no material to show that the victim is a minor. He submitted that in the statement of the victim recorded on 10th January 2023 there is no allegation of sexual assault made against the present Applicant. He submitted that for the first time in the supplementary statement dated 4th February 2023, the said allegation is made. He submitted that there are total five accused persons. Out of these five accused, Accused Nos.4 and 5 have been released on bail by this Court by order dated 18th April 2023 and 28th March 2024 respectively. He submitted that the Applicant is incarcerated since 6th February 2023 i.e. more than 1 year and 8 months and till date there is no progress in the trial. He therefore, submitted that the Applicant be released on bail.

6. On the other hand, Mr. Mali, learned APP for the Respondent-State and Mr. Butala, learned Counsel appointed by the High Court Legal Services Committee to represent the interest of the Respondent No.2 strongly opposed the Bail Application.

7. Both of them submitted that there is no basis in the contention raised on behalf of the Applicant that in the statement dated 10th January 2023, no allegations regarding sexual assault are made against the present Applicant and for the first time the said allegations are made in the supplementary statement dated 4th February 2023. Both of them pointed out history narrated by the victim to the Medical Officer who conducted the medical examination (Page 90). Both of them contended that while narrating about the incident as recorded in the medical record, it is specifically stated by the victim that the Applicant has sexually assaulted the victim. Both of them stated that the said statement is recorded on 11th January 2023 immediately after the first statement dated 10th January 2023. Both of them submitted that apart from the statement of the victim, supplementary statement of the brother and mother of the victim (Page 131 and 132) also supports the prosecution case. Both of them submitted that as the offence is serious, the Bail Application be rejected.

8. The allegations levelled against the Applicant are very serious and therefore, no case is made out for grant of bail on merits.

9. However, it is required to be noted that FIR has been lodged on 9th December 2022, the Applicant has been arrested on 6th February 2023, charge-sheet was filed on 3rd March 2023. There is no progress in the trial and even the charge is also not framed yet. As per the charge-sheet, there are 13 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

10. There are no criminal antecedents against the present Applicant.

11. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail. If the Applicant’s detention continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial.

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

12. Mr. Barasawade, learned Counsel appearing for the Applicant states that as the victim is residing in Pune District, the Applicant will therefore not reside within District – Pune and that the Applicant will reside at House No.352/2, Main Market, Adjacent to Bank of Maharashtra, Khopoli, Taluka – Khopoli, District – Raigad, Maharashtra – 410 203.

13. The Applicant does not appear to be at risk of flight.

14. Accordingly, the Applicant can be enlarged on bail by imposing stringent conditions.

15. In view thereof, the following order:-

ORDER

- (a) The Applicant – Bablu Mewalal Bansal be released on bail in connection with C.R. No.1195 of 2022 registered with the Hinjewadi Police Station, 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 Khopoli Police Station, Taluka – Khopoli, District – Raigad once every week i.e on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Khopoli Police Station, Taluka – Khopoli, District – Raigad 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.

16. The Bail Application is disposed of accordingly.

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

18. This Court places on record the appreciation for the assistance rendered to the Court by Mr. Saurabh Butala, learned

Counsel appointed by the High Court Legal Services Committee,
Mumbai to represent the interest of the Respondent No.2.

[MADHAV J. JAMDAR, J.]