

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

CRIMINAL BAIL APPLICATION NO.1146 OF 2024

Aaba @ Sagar Hanumant Gaikwad Applicant

V/s.

State of Maharashtra & Anr. Respondents

Mr.Keshav Chavan i/b Ms.Ankita D. Marbhal, for the Applicant.

Ms.Sangeeta D. Shinde, APP, for Respondent-State.

Ms.Shalini Shankar, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th FEBRUARY 2025

P.C:-

. By this Application, Applicant is seeking regular bail in Crime No.87 of 2021 registered with Mahabaleshwar Police Station, Districit-Satara, for the offence punishable under Sections 376 and 504 read with Section 34 of the Indian Penal Code, 1908 ('IPC' for short) and under Sections 4,6 and 17 of the Protection of Children From Sexual Offences Act, 2005 ('POCSO' for short), Section 80, 81 and 87 of the Juvenile Justice Act, under Section 3(3),4(4)(5), 523 of Pre-Conception and Pre-

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2025.02.12
18:36:29 +0530

Natal Diagnostic Techniques, 1994 ('PCPNDT Act' for short) and Section 12 of the Notary Act.

2. It is prosecution case that, the Applicant and co-accused sexually assaulted the victim repeatedly. Due to said assault victim got pregnant and delivered child at the time of the incident. The victim was 16 years and one month old, It is alleged that, the DNA of child matches with the DNA of the Applicant.

3. It is contention of the learned counsel for the Applicant that, co-accused against whom some allegations are levelled has been released on bail. The learned counsel further submitted that, it is alleged that, the Applicant and co-accused sexually assaulted the victim, though the DNA of the delivered child matches with the Applicant's DNA, it will be part of the trial to prove the prosecution's case. The Applicant is behind bar more than 3 years. Yet trial has not started. There was love affair between the Applicant and victim. It may take time to conclude the trial. Hence, requested to allow the Application.

5. It is contention of the learned APP that, along with Respondent No.3 that the Applicant and co-accused repeatedly sexually assaulted the victim, who was minor. Due to sexual assault, she got pregnant and delivered child. The DNA of the child matches with the Applicant. It shows that the Applicant is father of the child. At the time of the incident victim was minor. The Applicant was aware about it. If Applicant released on bail he may threaten prosecution witnesses. Hence, requested to reject the Application.

6. I have heard all learned counsel's. Perused charge-sheet.

7. It is prosecution case that, the Applicant and co-accused repeatedly sexually assaulted the victim, due to said sexual assault victim got pregnant and delivered a child. The DNA of the child matches with the Applicant. The co-accused against whom allegations of the sexual assault are made has been released on bail.

8. Considering these facts, the Applicant is entitled for bail on principle of parity. Moreover, the Applicant is behind bar

more than 3 years. Yet trial has not been commenced. It may take time to conclude the trial.

9. Considering these facts, I pass following order.

ORDER

- (i) The Applicant-Aaba @ Sagar Hanumant Gaikwad be released on bail in Crime No.87 of 2021 registered with Mahabaleshwar Police Station, District-Satara, on furnishing PR bond of Rs.30,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall not enter in the area where victim resides till recording of the evidence of the victim.
- (iii) The Applicant shall attend the concerned Police Station as and when called by the Investigating Officer.
- (iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)