

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 452 OF 2024**

Firoz Jahiruddin Ansari	...Applicant
<i>Versus</i>	
State of Maharashtra & Anr.	...Respondents

Mr. Atul P Kakde, *with Deepali R. Saudagar, for the Applicant.*
Mr. Yogesh Y Dabke, *APP for the Respondent No.1-State.*
Ms. Kanchan Pawar (Legal Aid Counsel), *for the Respondent No.2.*

CORAM DR. NEELA GOKHALE, J.
DATED: 19th NOVEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.335 of 2021 dated 13th December 2021 registered with the Hill Line Police Station, Thane City for the offences punishable under Sections 376(3), 376, 376(i), 376(2)(j), 376(2)(n) of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 4, 5(j)(2), 5(l) and 6 of the Protection of Children From Sexual Offences Act, 2012 (for short 'POCSO Act').

2. The facts of the case, in brief, are that:-

2.1 The Victim was almost 16 years and the Applicant was 21 years of age, at the time of incident. They met in a nearby shop and established intimate relationship with each other. The Victim became pregnant because of the said relationship. When her mother found out regarding her pregnancy, she took the Applicant to the hospital where her pregnancy was medically terminated. The mother of the Victim filed the complaint with the Police, resulting in registration of the FIR.

3. The Applicant made an application seeking bail before the Special Judge under POCSO Act, Kalyan, however, by order dated 7th July 2022, the same came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. Mr. Atul Kakde, learned counsel appearing for the Applicant, submits that there was a consensual relationship between the parties and out of the said relationship, the

Victim became pregnant and from entire narration in the FIR, there is no whisper of any forced relationship on the Victim. He further submits that the Applicant was 21 years at the time of incident and was arrested on 14th December 2021 and has suffered incarceration for about 4 and half years and till date, no charges are framed. In these circumstances, he submits that the Applicant be granted bail.

5. Per contra, Mr. Yogesh Dabke, learned APP representing the State in the matter, submits that the offence is serious and is under the POCSO Act. Notwithstanding that there may have consensual relationship between the parties, the Victim was minor at the time of incident hence, she was unable to give valid consent for the said act. More serious is that, the Applicant impregnated her and she had to undergo the procedure to medically terminate her pregnancy. In these circumstances, he submits that bail should not be granted to the Applicant. He however, concedes that there are no antecedents against the Applicant.

6. Ms. Kanchan Pawar, learned counsel appointed to represent the Respondent No.2-Victim, supports the arguments of Mr. Yogesh Dabke, learned APP representing the State in the matter.

7. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

8. Undoubtedly, the Victim was a young girl of 16 years of age at the time of incident and therefore, falls within the scope and ambit of the meaning of '*Child*' under the POCSO Act. The Applicant himself was also 21 years of age at the time of the incident. The statement of the Victim recorded under Section 164 of the Code of Criminal Procedure, 1973, *prima facie* indicates that the relationship between the parties was consensual. Although the said enactment is enacted to protect children from sexual offenders and sexual assault, the object cannot be construed to mean to be used to punish minors for relationship and brand them as criminals.

9. The Applicant is in custody since 14th December 2021 and till date, even charges are not framed. It is thus, not likely that the trial will conclude in a foreseeable future.

10. In view of aforesaid discussion, I am inclined to enlarge the Applicant on bail. Hence, the following order is passed:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.30,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall also attend the Police Station concerned on the first Monday of every month between 11:00 a.m. and 02:00 p.m.;
- iii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the Police Station concerned, if any;

v) The Applicant shall not leave India, without the permission of the Trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and mobile number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

11. The Application is allowed in the above terms and is accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)

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signed by
SHAMBHAVI
NILESH
SHIVGAN
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