

VRJ

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

BAIL APPLICATION NO.2537 OF 2024

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Suraj Pannalal Sharma

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Afsha Khatri and Tauqeer Siddiqui for the applicant.

Ms. Megha S. Bajoria, APP for the State-respondent No.1.

Ms. Gayatri Pinkyar for respondent No.2 (Appointed as Legal Aid Counsel).

Mr. Ajay G., API, Mumbra Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 25, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on bail in connection with Crime No. I-1220 of 2023 registered at Mumbra Police Station for offences punishable under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the "POCSO Act").

2. As per the case of the prosecution, the incident dates back to the year 2020. At that time, the complainant was a student of 10th standard. One day, she had gone to the house of her friend

Rajashree Humbre at Diva, where she met the applicant for the first time. The applicant then shared his mobile number with the complainant and thereafter began communicating with her frequently over the phone. According to the complainant, in October 2020, the applicant called her and expressed his desire to marry her. Based on this assurance, the applicant took her to the house of one of his friends, Thakur, located at Vasudeo Apartment, Diva, and established physical relations with her without her free consent. It is further alleged that the applicant continued to maintain physical relations with the complainant multiple times, including at his own residence. On 20th September 2023, he again had physical relations with her. However, thereafter, he allegedly started avoiding her calls. When the complainant confronted the applicant, he told her that he did not intend to marry her and that she may do whatever she wants. Feeling betrayed and deceived, the complainant lodged the present FIR against the applicant.

3. Learned counsel appearing for the applicant submitted that, at the time of the first alleged incident in October 2020, the victim was 15 years old and the applicant himself was below 18 years of age. It is further contended that the relationship between the applicant and the victim was consensual and continued up to September 2023. It is submitted that the FIR narration does not disclose any use of force or coercion by the applicant. According to the learned counsel, the victim's allegation that the consent was induced by a false promise of marriage does not change the nature of the relationship which was, at all times, consensual. The applicant, therefore, seeks release on bail on the ground that he

was a juvenile at the relevant time and that no case of aggravated sexual assault is made out.

4. On the other hand, the learned APP and the learned counsel appointed to represent the victim strongly opposed the bail application. They submitted that the victim was a minor, aged 15 years, at the time of the first incident. Under the POCSO Act, the consent of a minor has no legal value and hence even if the victim consented, it would not absolve the applicant of criminal liability. It is further submitted that the relationship continued only under the impression created by the applicant that he would marry the victim. Once the victim attained majority and realized that the promise was false and the applicant had no intention to marry her, she gathered the courage to report the matter. It is submitted that the nature of allegations are serious and pertain to repeated sexual assault over a prolonged period, and hence the applicant is not entitled to be released on bail.

5. I have considered the arguments advanced by the learned counsel for the applicant, the learned APP, and the learned advocate representing the victim. I have also perused the FIR, statement of the victim, and the material collected during investigation, including the charge-sheet.

6. It is not in dispute that the incident as narrated in the FIR initially took place in the year 2020, when the victim was about 15 years of age. It is also stated that the applicant was below the age of 18 years at the relevant time. Though the offence is serious in nature, it is relevant to note that the FIR came to be lodged after a

considerable delay, nearly three years from the date of the first alleged act. There is no material placed on record to show that the applicant forced or coerced the victim by any threat or violence.

7. The statements and material indicate that the relationship between the applicant and the victim continued for a prolonged period and appears to have been consensual in nature, albeit the victim being a minor. The allegations regarding false promise of marriage are matters of trial and will have to be tested on the basis of evidence during trial. At this stage, there is no prima facie material suggesting that the applicant posed any threat or danger to the victim or tried to influence the investigation.

8. It is also relevant to note that the applicant has no criminal antecedents and has been in custody since his arrest. The investigation is complete and charge-sheet has already been filed. Therefore, the continued detention of the applicant is not necessary for the purpose of investigation or recovery.

9. The applicant is a young person, reportedly below 18 years at the time of alleged first incident, and is not shown to have misused liberty in the past. Considering the totality of circumstances, including the age of the applicant at the relevant time, the nature of allegations, and the delay in lodging of FIR, this Court is of the opinion that the applicant deserves to be released on bail with suitable conditions to ensure his presence during trial.

10. Hence, the following order is passed:

11. The applicant is directed to be released on bail on executing

a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or more sureties in the like amount, subject to the following conditions:

- a) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
- b) The applicant shall cooperate with the prosecution and attend all trial dates regularly.
- c) The applicant shall not tamper with evidence or influence any witness.
- d) The applicant shall provide his current residential address and inform the court in case of change of residence.
- e) The applicant shall not commit any offence during the pendency of trial, failing which his bail is liable to be cancelled.

12. The bail application stands disposed of in the aforesaid terms.

(AMIT BORKAR, J.)