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

BAIL APPLICATION NO.3661 OF 2024

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Ramdas Sopan Kadam

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Ms. Anjali Patil with Tohid Shaikh for the applicant.

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

Mr. Swapnil R. Chopade with Hrishikesh Giri and
Prateek Jha for respondent No.2.

Mr. Deshmukh, PSI, Sahar Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

P.C.:

1. By this application filed under Section 439 of the Criminal Procedure Code, 1973, the applicant seeks regular bail in connection with Crime No.568 of 2023, registered with Sahar Police Station for offences punishable under Section 376 of the Indian Penal Code, 1860; and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The prosecution case, as emerges from the First Information Report and the statement of the complainant, presents the

following factual matrix: The complainant is a minor girl who was working at Anita Suraj Garment shop to support her family. Her mother is engaged in housekeeping work, indicating the modest economic background of the family. The accused was employed in a shop situated in proximity to the complainant's workplace, which facilitated their initial acquaintance. The accused and the complainant came to know each other through their work proximity. What began as casual conversations gradually developed into a friendship. The nature of their interaction evolved over time, with both parties engaging in regular communication and meeting after office hours. During this period, the accused began displaying romantic interest by kissing the complainant, which she apparently did not resist.

3. In July 2023, the accused took the complainant to Juhu Chowpati for recreational purposes. It was during this outing that the accused made a formal proposal of marriage to the complainant, which she accepted. Following this proposal, both parties exchanged mobile numbers, thereby establishing more direct and frequent communication. The accused consistently assured the complainant of his intention to marry her, which formed the foundation of their continuing relationship. On 6th August 2023, the accused took the complainant to Bhivpuri in Raigad district. During this visit, he represented to her that he would solemnize their marriage immediately. Under this representation, he kissed her, which the complainant did not resist, believing in the genuineness of his marriage proposal. On 3rd November 2023, the complainant contacted the accused

telephonically. The accused asked her to meet him on 4th November 2023. On the said date, the accused took the complainant on his motorcycle to a lodge in Lonavala. At the lodge, the accused made advances towards the victim with the intention of having sexual intercourse. When the complainant refused his advances, the accused threatened to make viral certain photographs he had taken of her. Under this threat and coercion, the accused committed forcible sexual intercourse with the complainant against her will and thereafter abandoned her.

4. On 22nd November 2023, when the complainant attempted to contact the accused, he responded by abusing her verbally. This change in his behavior, coupled with the traumatic experience at Lonavala, compelled the complainant to approach the police station on 23rd November 2023 and lodge a formal complaint regarding the incident. Based on this complaint, the aforementioned crime was registered against the accused.

5. The learned advocate appearing for the applicant has advanced the following arguments in support of the bail application: The counsel has submitted that the relationship between the applicant and the victim extended from 23rd March 2022 to 5th November 2023, spanning a period of approximately one year and seven months. This prolonged duration, according to the counsel, indicates that the relationship was not a casual encounter but a sustained association between the parties. The learned counsel has drawn attention to the statement of the victim, which reveals that she voluntarily accompanied the applicant to various places, including the lodge at Lonavala where the alleged

offence took place. The counsel argues that such voluntary participation demonstrates the consensual nature of their relationship and interactions.

6. Significantly, the counsel has pointed out that the victim's own statement indicates that she became aware of the applicant's marital status on 6th August 2023. Despite this knowledge, the relationship continued for approximately three months thereafter, with the complaint being lodged only on 23rd November 2023. The counsel has submitted that the victim, being 17 years and 6 months old at the relevant time, possessed sufficient maturity and understanding to comprehend the nature and consequences of her actions. The counsel argues that a person of such age cannot be considered incapable of giving meaningful consent. Based on the above circumstances, the learned counsel has contended that the relationship between the applicant and the victim was consensual throughout. The counsel argues that the delayed complaint and the continued relationship despite knowledge of the applicant's marital status support the conclusion that the relationship was consensual. Therefore, the applicant is entitled to be released on bail.

7. Per contra, the learned Additional Public Prosecutor and the learned Advocate appointed to represent the victim have vehemently opposed the bail application on the following grounds: The prosecution has contended that the applicant induced the victim to enter into a sexual relationship by making false promises of marriage. The counsel argues that such false promises vitiate any apparent consent given by the victim, as the consent was

obtained through fraud and misrepresentation. The prosecution has submitted that the victim lodged the complaint immediately after becoming fully aware of the applicant's marital status and his intention not to fulfill his promise of marriage. The counsel argues that this immediate action demonstrates the victim's genuine belief in the applicant's false promises and her sense of betrayal upon discovering the truth.

8. The prosecution has contended that the alleged consent was based entirely on the false promise of marriage made by the applicant. Since such consent is not valid in law, the ingredients of the offence under Section 376(2)(n) of the Indian Penal Code are clearly made out. The counsel argues that the applicant has committed rape by having sexual intercourse with the victim under the false promise of marriage. Given that the victim was a minor at the time of the alleged offence, the prosecution has submitted that the provisions of the POCSO Act are also attracted. The counsel argues that the consent of a minor, especially when obtained through false promises, cannot be considered valid under the POCSO Act. Based on the above submissions, both the learned Additional Public Prosecutor and the victim's counsel have prayed for the outright rejection of the bail application, arguing that the applicant is not entitled to the discretionary relief of bail in the present circumstances.

9. The evidence on record suggests that there was a prolonged relationship between the applicant and the complainant spanning nearly two years. The complainant voluntarily accompanied the applicant to various places, including the lodge at Lonavala where

the alleged incident occurred. Such voluntary participation raises prima facie questions about the non-consensual nature of the relationship. The complainant lodged the complaint on 23rd November 2023, whereas she admittedly became aware of the applicant's marital status on 6th August 2023. The delay of more than three months in filing the complaint, during which the relationship continued, weakens the prosecution's case regarding the immediate impact of the alleged false promise.

10. Apart from the alleged threat regarding photographs, there is no substantial evidence of physical force or coercion. The complainant's own statement indicates that she had been in a romantic relationship with the applicant for a considerable period, which suggests an element of consent. While the victim was 17 years and 6 months old at the relevant time, making her a minor under the POCSO Act, the courts have recognized that persons of such age possess sufficient understanding and maturity to comprehend the nature of their actions.

11. The applicant has been cooperating with the investigation and has not shown any tendency to flee from justice. He has permanent residence and employment, which reduces the risk of his absconding. The investigation appears to be substantially complete, and there is no specific allegation that the applicant has attempted to tamper with evidence or influence witnesses. The main evidence consists of the complainant's statement and medical reports, which cannot be altered at this stage. There is no evidence to suggest that the applicant has a criminal background or is likely to commit similar offences while on bail. The alleged offence

appears to be related to a specific relationship rather than a pattern of criminal behavior.

12. Based on the aforesaid analysis, this Court is of the considered opinion that the applicant has made out a case for bail. The prolonged and apparently consensual relationship, the delay in filing the complaint, the absence of strong evidence of force or coercion, and the fundamental right to liberty collectively weigh in favor of granting bail to the applicant. The court is mindful of the serious nature of the allegations and the need to protect the interests of the victim. However, the same can be achieved through appropriate conditions rather than continued incarceration of the applicant. Therefore, the application for bail is allowed, subject to appropriate conditions to be imposed by the court.

13. Hence, the following order is passed.

14. The applicant Ramdas Sopan Kadam is directed to be released on bail in connection with Crime No.568 of 2023, registered with Sahar Police Station for offences punishable under Section 376 of the Indian Penal Code, 1860; and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

- a) The applicant shall not tamper with the evidence or attempt to influence any witness.
- b) The applicant shall not, in any manner, contact the

victim or her family members, directly or indirectly.

c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

d) The applicant shall report to the Sahar Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

e) The applicant shall not enter the jurisdiction of the Sahar Police Station except for the purpose of reporting.

f) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

g) The applicant shall not indulge in any criminal activity during the pendency of the trial.

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

(AMIT BORKAR, J.)