

HARSHADA H. SAWANT  
(P.A.)

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

**BAIL APPLICATION NO.4733 OF 2024**

Sandeep @ Anup Santu Gupta

.. Applicant

**Versus**

State of Maharashtra and Anr.

.. Respondents

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- Ms. Anjali Patil, Advocate for Applicant.
- Ms. Megha S. Bajoria, APP for Respondent No.1 – State of Maharashtra.
- API – Pooja Chavan, Samtanagar Police Station, Pairavi Officer, (Mobile No.9766276770).

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**CORAM : MILIND N. JADHAV, J.**

**DATE : FEBRUARY 06, 2025**

**P.C.:**

**1.** Heard Ms. Patil, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent No.1 – State of Maharashtra.

**2.** This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking Bail in connection with C.R. No.848 of 2023 registered with Samata Nagar Police Station for offences punishable under Sections 376, 376(2)(n), 506 (2) of the Indian Penal Code, 1860 (for short ‘IPC’) read with Sections 4, 6, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO’).

**3.** At the outset, Ms. Bajoria, learned APP would inform the Court that Respondent No.2 – prosecutrix i.e. victim through her

family members has given her consent for legal aid. In that view of the matter, Ms. Kainat Sayed (Mobile No.9322577786), learned Advocate practicing at the Bar is appointed to represent and espouse the case of Applicant through the legal aid.

**4.** The High Court Legal Services Committee of this Court is directed to give appointment letter and papers of the matter to the appointed Advocate forthwith in accordance with law to represent and espouse the cause of Respondent through the legal aid.

**5.** Advocate for Applicant shall serve a copy of Application on appointed Advocate forthwith. Appropriate instructions can be given by Respondent No.2 through Police Inspector to contact learned Advocate.

**6.** The indictment of Applicant is under provisions of IPC read with POCSO Act. Age of prosecutrix – victim is 13 to 14 years at the time of first incident. Tenure of incident as can be seen from the record is over a period of two to three years. Admittedly victim and Applicant are known to each other and are relatives.

**7.** Ms. Bajoria, learned APP would submit that since victim terminated her pregnancy the DNA report is awaited. She would persuade the Court to defer until DNA report is made available and then hear the Application.

**8.** However Ms. Patil, learned Advocate for Applicant would submit that Applicant has been incarcerated for the past one and half year. She would persuade the Court to consider the fact that relationship between prosecutrix – victim and Applicant was consensual as borne out from facts on record and that it was spread over for a period of more than two years. In that view of the matter, she would argue that present case deserves immediate consideration.

**9.** In view of the above, it is directed that DNA report be filed before the Court by prosecution. However, if the said report is not produced within a period of two weeks from today, this Court shall not await for the same and hear the present Application on merits of the matter in view of the submissions advanced by learned Advocate for Applicant.

**10.** Stand over to **20<sup>th</sup> February, 2025**. To be placed under the caption '**First on Board**'.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

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