

Nikita

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

BAIL APPLICATION NO.4778 OF 2024

Ganesh Dilip Jadhav ... Applicant

V/s.

The State of Maharashtra and Anr. ... Respondents

Mr. Kuldeep Nikam for the Applicant.

Mr. S. S. Chaudhari, APP for the State.

Mr. Vikrant Anand Desai for the Respondent No.2.

CORAM : ASHWIN D. BHOBE, J.

DATED : 28th JULY, 2025

P.C.:

1. Heard Mr. Kuldeep Nikam, learned Advocate for the Applicant, Mr. S. S. Chaudhari, learned APP for the State and Mr. Vikrant Anand Desai, learned Advocate for the Respondent No.2.

2. Applicant by the present application, filed under Section 439 of the Code of Criminal Procedure, 1973, is seeking bail in C.R. No.48 of 2024, registered on 29.12.2023, with Deola Police Station, Nashik, under Section 363, 376, 376(2)(j), 376(2)(n) of the Indian Penal Code, 1860 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012. Said crime is registered as Special (POCSO) Case No.132 of 2024 and is pending before the Court of Additional Sessions Judge, Nashik.

3. Case of the prosecution is that the Applicant a 38 years old

married man, with two children working as a Talathi, who happens to be the cousin brother of the victim's mother, has sexually abused and sexually assaulted the victim, a 17^{1/2} old girl. Applicant on the pretext of field work, used to visit the house of the victim, sometimes stay overnight. Applicant by giving mobile phone to the victim, developed relations with the victim and thereafter took advantage of the victim, committed forcible penetrative sexual assault on the victim on more than one occasion.

4. Mr. Kuldeep Nikam, learned Advocate for the Applicant submits that the victim being almost 18 years, was of the age of understanding and capable of consenting to the relationship, she had with the Applicant. He submits that considering the age of understanding of the victim relationship between the Applicant and the victim can be termed to be a consensual relationship. He submits that the physical relationship between the Applicant and the victim being consensual is further indicated from various communications the victim had with the Applicant on the mobile phon, given by the Applicant to the victim. He therefore submits that the present case shows a love affair between the Applicant and the victim.

5. Mr. S. S. Chaudhari, learned APP for the State submits that the Accused is a married man and holding a responsible post in the Government, as such was expected not to involve himself in the acts referred to in the crime, that too with a minor. He submits that the sexual assault on the victim is supported by the medical evidence on record. He submits that the victim was a minor on the dates she was sexually assaulted by the Applicant. He submits that

the victim being below the age of 18 years, claim of the Applicant that the relationship between him and the victim, being consensual or love affair, is liable to be rejected.

6. Mr. Vikrant Anand Desai, learned Advocate for the Respondent No.2 submits that the victim in her statement under Section 164 of the Cr. P.C. has clearly named the Applicant and has stated as to how the Applicant had taken advantage of the victim and committed the sexual assault on her. He submits that as per Section 90 of the IPC, the age for consent being 18 years, the contention of the Applicant having consensual relationship with the Applicant is of no consequence. He submits that the Applicant used his shrewdness in finding the weakness of the young victim girl and gifting a mobile phone to the victim to take advantage of such girl. He submits that the statement of victim would indicate that the Applicant would take victim in his luxurious Skoda Vehicle. He submits that even after being in jail Applicant tried to use his influence, to threaten the Respondent No.2 i.e. father of the victim by pressurizing him to withdraw the case. He submits that the pursis to that effect was placed on record by the victim before the learned Trial Court.

7. Perused the records with the assistance of the learned Advocates for the parties.

8. Perusal of the records indicate that the Applicant, a married person of 38 years of age, father of two children and cousin uncle of the victim sexually assaulted the victim on more than one occasion. Victim in her statement recorded under Section 164 of

Cr. P. C. has referred to the Applicant and the sexual assaults committed by him. Medical report of the victim, clearly indicates signs of sexual intercourse. Gifting of mobile to the victim can be viewed as a manipulative tactic of the Applicant to gain advantage from a minor victim girl. Victim was 17^{1/2} years of age on the dates of the assault, thus not capable of giving consent to the relationship as claimed by the Applicant. The stand of the Applicant of the physical relationship being consensual and /or out of love affair, cannot be countenanced.

9. *Prima facie*, the material on record is sufficient to believe the Applicant having committed the offence charged in the present crime. There is clinching material to show the complicity of the Accused in the crime.

10. Considering the material on record and the statement made by the learned Advocate for the Respondent No.2 of the attempts made by the Applicant to threaten/ pressurize the Respondent No.2, there exist a reasonable apprehension, that if released on bail, the Applicant may attempt to threaten and influence the victim / prosecution witnesses. This is not a case for grant of bail.

11. In view of the above, Bail Application No.4778 of 2024 is dismissed.

(ASHWIN D. BHOBE. J.)