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

BAIL APPLICATION NO.1434 OF 2025

VAIBHAV
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Rohit Rammilan Kumar Gautam

... Applicant

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. R. C. Pandey for the applicant.

Mr. Sagar R. Agarkar, APP for the State.

Ms. Vilasini Balsubramanian for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : JUNE 11, 2025

P.C.:

1. By this application under Section 439 of the Criminal Procedure Code, 1973, the applicant is seeking bail in connection with Criminal Register No.541 of 2024 registered with Manpada Police Station for offences punishable under Sections 376(2)(n), 506 of the Indian Penal Code, 1860 and Sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 and 67B of the Information Technology Act, 2000.

2. The prosecution case in short is that the victim and the applicant were in love affair. The applicant and the complainant gone acquainted being native in their hometown in Uttar Pradesh. The relationship started in September 2023 when the victim was around 16 years old. The victim was, thereafter, shifted to Thane.

The applicant thereafter started visiting Taluka Kalyan, District Thane. It is alleged that the applicant clicked nude and seminude photographs of the victim and threatened to make such photographs viral. It is also alleged that the said photographs were sent to the victim's mother and the uncle. The applicant had sexual intercourse with the victim who was minor. The victim herself therefore lodged a report with the concerned police station which led to arrest of the applicant on 5 April 2024.

3. The prosecution's narrative reveals a pattern of exploitation that began with what appeared to be a consensual relationship but allegedly evolved into systematic abuse and intimidation. The geographical movement from Uttar Pradesh to Maharashtra suggests premeditation and planning on the part of the applicant, particularly considering that such movement coincided with the victim's relocation to Thane. The allegation of creating and threatening to disseminate intimate photographs constitutes not only a violation of the victim's dignity but also falls squarely within the ambit of cyber crimes under the Information Technology Act.

4. The applicant had filed bail application before the Special Judge, Kalyan which came to be rejected on the ground of gravity of offence. The applicant has, therefore, filed present bail application. The rejection of the earlier bail application by the Special Judge indicates that the trial court found sufficient grounds to deny bail based on the serious nature of the charges.

5. Learned advocate for the applicant submitted that the applicant has been arrested on 5 April 2024. The trial is yet to

commence. It is submitted that even according to the case of prosecution, the victim's age was around 16 years on the date when the consensual relationship between the applicant and the victim started. She accompanied him at various places on her own. It is also alleged that due to the caste of the applicant the parents were not ready to accept the relationship which resulted in filing of report. He therefore submitted that considering the age of the applicant who is around 22 years having no criminal antecedents, he deserves to be released on bail.

6. Per contra learned APP along with learned advocate for the victim vehemently opposed grant of bail on the ground that offence alleged against the applicant is serious. Undisputedly, the victim was minor on the date of intercourse and, therefore, the case of consent has no bearing on the gravity of the offence. It is also submitted that the victim accompanied the applicant under the threat of the applicant that he will make the photographs clicked with her viral and, therefore, the applicant's application deserves to be rejected.

7. Having considered the charge sheet along with statements of the victim, mother, and other material on record, it is evident that prima facie the victim's age at the initiation of the relationship was around 16 years. Under Section 2(d) of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), a "child" is defined as any person below 18 years of age, rendering the question of consent immaterial in this context. The applicant, aged approximately 21 years, falls within the category of a "young adult", necessitating a balanced assessment of his culpability

against the statutory mandate of the POCSO Act.

8. In facts of the case, the victim's voluntary accompaniment of the applicant to various locations, as documented in her statements, does not negate the statutory offence under Section 4 of the POCSO Act but may factor into the proportionality of pre-trial detention. The supplementary statement of the victim alleges that the applicant threatened to disseminate intimate photographs, a claim purportedly supported by messages sent to the victim's mother. However, the mother's refusal to surrender her mobile device for forensic examination creates a gap, as no independent digital evidence has been adduced to substantiate the prosecution's allegation.

9. On overall consideration of the facts, including the victim's age, the applicant's youth, and the systemic delays inherent in POCSO trials, the court finds that continued incarceration pending trial would constitute disproportionate hardship. The applicant has remained in judicial custody since 5 April 2024, a period exceeding fourteen months, without substantive progress in trial proceedings.

10. While the gravity of offences under Sections 376(2)(n) IPC and Section 6 of the POCSO Act warrants caution, the absence of corroborative evidence beyond the victim's and mother's testimonies—coupled with the applicant's lack of criminal antecedents—tilts the balance in favor of conditional release. The court particularly notes that the applicant's age (21 years) places him in a transitional phase of psychosocial development, where prolonged pre-trial detention could have severe rehabilitative

implications without commensurate public safety benefits.

11. In view of the discussion above, and considering the nature of allegations, the stage of trial, and the fact that the applicant has made out a case for grant of bail, this Court is of the considered opinion that the applicant deserves to be released on bail, albeit with stringent conditions so as to balance the interests of justice and ensure that the liberty granted is not misused.

12. Accordingly, the applicant is directed to be released on bail, upon executing a personal bond of ₹50,000/- (Rupees Fifty Thousand Only), with one or more solvent sureties of the like amount, to the satisfaction of the Trial Court, subject to the following conditions, which are imposed in the interest of fair trial and to safeguard the victim:

(a) The applicant shall not, in any manner, establish any contact with the victim or her family members, whether directly or indirectly, through any mode including physical presence, phone calls, messages, social media or through any third party. This condition is necessary to avoid any pressure or harassment to the victim.

(b) The applicant shall not enter the locality where the victim presently resides and shall maintain a minimum distance of 500 meters from her residence.

(c) The applicant shall extend full cooperation to the Investigating Officer and the prosecution during the trial. He shall remain present before the Trial Court on each and every date fixed in the case without fail, unless exempted by

the Court.

(d) The applicant shall not tamper with any evidence in any manner nor shall he attempt to influence any witness, directly or indirectly. Any breach of this condition may lead to cancellation of bail.

(e) The applicant shall provide his present residential address and mobile number to the Investigating Officer as well as the Trial Court. In case of any change in residence or contact number, he shall immediately inform the same in writing to the Court and the concerned police station.

(f) The applicant shall not leave the jurisdiction of the Trial Court without obtaining prior permission from the Court. This condition is necessary to ensure his presence and participation in the trial.

(g) The applicant shall report to the Manpada Police Station on the first Monday of every month, between 10:00 a.m. and 12:00 noon, until further orders, so as to enable the police to monitor his movements and ensure compliance with bail conditions.

13. In view of the above, the bail application stands allowed and disposed of in the aforesaid terms.

(AMIT BORKAR, J.)