



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPEAL NO. 408/2025

Dhiraj @ Gajanan Ramesh Lanjurkar Vs. State of Maharashtra and Anr.

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. A. V. Karnavat, Advocate for the Applicant.
 Mr. A. J. Gohokar, A.P.P. for the Non-applicant/State.
 Mr. S. R. Jaiswal, Advocate (Appointed) for Non-applicant No.2.

CORAM : MRS.VRUSHALI V. JOSHI,J.

DATED : 13/10/2025.

. Heard.

2. The appellant is arrested in Crime No.296/2022 registered with Police Station, Jalamb, District Buldhana for the offences punishable under Sections 363, 366, 376(2)(n) of the Indian Penal Code, Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The story of the prosecution in a nutshell is that, on 06.12.2022, the victim was sleeping with her parents in their house. On 07.12.2022, in the morning, the mother of the victim found that she was not at home. Therefore, they took search and missing complaint was lodged. The victim was found with the accused/appellant at Pune. The statement of the victim is recorded; wherein she stated that she stayed with the appellant. They performed marriage by exchanging garland. They stayed as a husband and wife and they had sexual relations. Hence, the crime is registered against this appellant.

4. The learned Counsel for the appellant stated that the victim is 16 years of the age. She has performed the marriage with the appellant. The relations were out of love affair. The offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is registered, however, the victim herself stated about the love affair between them and out of love affair, they performed marriage and stayed together. The appellant is in jail since 2022. There is no progress in trial. The appellant is ready to marry with the victim. Hence, prayed to release the appellant on bail

5. The learned A.P.P. opposed the appeal stating that the victim is minor and her consent is immaterial and inconsequential. He has relied on the judgment of the Hon'ble Apex Court in the case of *Satish Kumar Jayanti Lal Dabgar Vs. State of Gujarat [Criminal Appeal No.230/2013]*, wherein it is observed that, if the prosecutrix is less than 16 years of age, then her consent is immaterial. Hence prayed to reject the application.

6. The learned Counsel for the victim has also stated that the statement of the victim under Section 164 of the Code of Criminal Procedure is still not recorded that is also the reason to reject the bail application. At that time, the victim was 16 years and the appellant was 24 years of the age. The consent of the victim is immaterial. Hence prayed to reject the application.

7. Heard both the learned Counsel for the respective parties.

8. From the First Information Report itself it appears that the victim herself called the appellant and

they ran away. It is out of love affair. They stayed together for 22 days. They exchanged the garland and performed the marriage. Though it is the child marriage, the victim is the aggressor in this case. The appellant is ready to marry with the victim, the learned Counsel for the appellant has relied on the judgment of this Court in the case of *Vijay Chand Dubey Vs. The State of Maharashtra and Anr. [Criminal Appeal No.3899/2024]*, wherein this Court has placed relied on the judgment of *Sunil Mahadev Patil Vs. The State of Maharashtra [Bail Application No.1036/2015]*, wherein it is observed in paragraph No.8 as under :

“8. Attention is also drawn to the decision of this Court (Coram: Ms. Mridula Bhatkar, J.) in the case of **Sunil Mahadev Patil Vs. the State of Maharashtra [Bail Application No.1036/2015]** to contend that consensus of the prosecutrix who is below the age of 18 years is a mitigating circumstance for Trial Court to consider. In furtherance to the above Court has laid down certain specific guidelines after taking into consideration relevant cases also the ethos and development of the age of the young offenders in the Indian Society in general. Court in paragraph Nos.8, 9, 11 and 12 has laid down certain principles which I find it apt to be reproduced hereinbelow for consideration of bail in such Applications. Paragraph Nos.8, 9, 11 and 12 read thus:

“8. It is to be noted that the case of S. Varadarajan was decided in the year 1967 when the women were not enjoying the freedom which today the women have. Albeit the Hon’ble Supreme Court then has taken a pragmatic view and has acquitted

Varadarajan. Now we come across such cases everyday. If a girl is a minor between the age group of 15 to 18 years and if it can be safely inferred that her consent was obvious, then it is a mitigating circumstance. Some trial Courts dealing with such Bail Applications, especially after Nirbhaya case, started taking a strict approach and the accused are denied the bail only on the ground that the prosecutrix being minor below 18 years, her consent is immaterial, therefore, in the case of rape on such minor, no bail can be granted. This is a matter of concern.

9. In view of the increasing offences against the women especially of rape, the legislature both found it obligatory to deal these offences with severe punishment and women can be protected if the laws are made rigorous. Therefore, report of Justice Verma Committee was accepted and necessary and significant amendments were made in these two sections. A wrong doer is to be punished, guilty is to be convicted. However, at the stage of bail, the Court has to consider prima facie under what circumstances the offence is committed by the accused. In the criminal law, the Court cannot ignore the intention or motive behind the act and that is an important factor in the commission of offence so also to decide the quantum of sentence at the end of trial, so in the case of bail.

10. ...

11. Today teenagers are exposed to more sex related issues and lot of material is also available to them to know the sexual relationship between a man and a woman. Because of their impressionable age, girls

and boys both may tend to get provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. Sexual urge differs from person to person and there cannot be any mathematical formula in respect of sexual behavioral pattern of teenagers, as biologically whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on upbringing, peer pressure, how civilized the environment is etc. Sex requires proper physical and emotional preparation, as it results in many physical and emotional consequences. This is all considered as a sexual maturation. Therefore, some sets with view to regularize sexual behaviour of the community have acknowledged this biological factor and therefore, the early age marriages are performed in some religions or communities. Taking into consideration this social and biological factors, the law makers have considered the age of 15 as a age of consent when the marriage is performed. Taking into consideration this background, the trial Judge has to pass an order of bail in such cases.

12. The overall considerations while deciding such applications can be summed up as -

When a boy and a minor girl are in love with each other and chose to live together without consent of their parents, then the following factors are to be considered:

- (i) What is the age of the prosecutrix, who is minor.
- (ii) Whether the act is violent or not.
- (iii) Whether there are antecedents or not.
- (iv) Whether the offender is capable of

repeating Act or not.

(v) Whether there is likelihood of threats or intimidation, if at all the boy is released.

(vi) Whether any chance of tempering with the material witnesses when their statements are recorded.

(vii) It is also to be taken into account in such cases that a boy in his early 20's deserves to get employment and to plan, stabilize and secure his future.”

9. Considering the circumstances, and as the appellant and the victim were having love affair, the case is made out to release the appellant on bail. Accordingly, I pass following order:

i] The criminal appeal is allowed.

ii] The appellant shall be released on bail in connection with Crime No.296/2022 registered with Police Station, Jalamb, District Buldhana for the offences punishable under Sections 363, 366, 376(2)(n) of the Indian Penal Code, Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.

iii] The appellant shall not in any way tamper with the prosecution evidence.

iv] The appellant shall not pressurize or threaten the prosecution witnesses.

v] The appellant shall attend the concerned police station on every Monday and Saturday between 1:00 p.m. to 2:00 p.m.

vi] The appellant shall co-operate the investigation officer.

The appeal stands disposed of.

(MRS. VRUSHALI V. JOSHI, J.)