

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO. 1101 OF 2024

Suraj Vijay Torkad
.Vs.

The State of Maharashtra thr. PSO, PS Mahagaon Dist. Yavatmal and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr V.R. Thote Advocate for the applicant.
Mr. U.R. Phasate, APP for State.

CORAM : G.A. SANAP, J.
DATE : 18.02.2025

Heard.

2. By this application, the applicant has prayed for bail in Crime bearing No.275/2024 registered at Mahagaon Police Station, District Yavatmal for the offences punishable under Sections 363, 376(2)(n) of the Indian Penal Code, 1860 (for short, 'the I.P.C.') and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. Learned Advocate for the applicant would submit the victim girl, on the date of the incident was 16 years of age and as such capable to understand the consequences of her act. Learned Advocate took me

through the first information report and pointed out that the victim girl has admitted that there was love affair between her and the accused. The accused, in the submission of learned Advocate, is 19 years of age. Learned Advocate would submit that the report was lodged on the instigation of parents of the victim. The accused has been in jail from 06.04.2024. Charge-sheet has been filed. Charge has not been framed. It is submitted that trial may take time for completion. In the facts situation, it is submitted that his further incarceration is not necessary. He is ready to abide by the conditions that may be imposed by the Court.

4. Learned APP would submit that defence of consensual act is not available to the accused inasmuch as the victim girl, on the date of the offence ,was 16 years of age. Learned APP would submit that the accused is resident of same village and therefore, the possibility of tampering with the prosecution evidence cannot be ruled out.

5. Learned Advocate for the victim is absent.

6. I have perused the first information report.

The incident took place on 1st April, 2024. The report was lodged on 6th April, 2024. Perusal of the report would show that there was love affair between the accused and the victim girl. I am conscious to the fact that the defence of the consensual act is not available to the accused inasmuch as the victim was below 18 years of age. On this count alone the submission cannot be accepted. However, record shows that the victim girl, on the date of the crime, was 16 years of age. She had appeared for 10th standard examination. The victim has stated that she accompanied the accused. The accused expressed his love for her and promised to marry her. The victim girl, as can be seen from the report was capable to understand the consequences of her own act. It is not her case that she was forcibly taken out from her house by the accused. The accused and the victim spent some time together. It is further seen on perusal of the medical examination report of the victim that there was not a single injury to her genitals. In my view, considering the statement of the victim that there was love affair between her and the accused, she on the date of the incident, was capable to understand the consequences of her own act. In this factual position it would not be proper to deny bail to the accused. No purpose would be served by keeping the

accused behind the bars for indefinite period. As far as the apprehension put forth by the learned APP is concerned, the same can be taken care of by imposing appropriate conditions. In the facts and circumstances, I am of the opinion that this is a fit case to exercise the discretion in favour of the accused. Accordingly, I pass the following order:

- i) Criminal application is allowed.
- ii) Applicant- **Suraj s/o Vijay Torkad** be released on bail in Crime No.275/2024 registered with Police Station Mahagaon District: Yavatmal for the offences punishable under Sections 363, 376(2)(n) of the Indian Penal Code, 1860 (for short, 'the I.P.C.') and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.
- iii] The applicant shall not in any way tamper with the prosecution evidence.

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

v] The applicant shall co-operate the investigating officer.

vi] The applicant shall not enter village Malkapur Chikhali District Yavatmal.

7. The Criminal Application stands **disposed of** accordingly.

(G. A. SANAP, J.)

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