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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

CRIMINAL BAIL APPLICATION NO.4016 OF 2015

Aakash Anand Vishwakarma	...Applicant
V/s.	
The State of Maharashtra & Anr.	..Respondents

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Mr.Gautam T. Kanchanpurkar for the Applicant.

Mr.S.K. Gajare, APP for the Respondent – State.

Mr.Ajitsingh Rajput, PI, Samta Nagar Police Station is present in Court.

Ms.Komal Sinha, appointed advocate for Respondent No.2.

CORAM : R.M. JOSHI, J.
DATE : 6TH APRIL, 2026.

P.C. :-

1. The Applicant seeks bail in connection with Crime No.248 of 2025 registered with Samta Nagar Police Station, Mumbai for the offences punishable under Sections 64(2) (i), 64(2) (m), 65, 351(3) of Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) and under Sections 4, 6, 8, 12 of The Protection of Children from Sexual Offences Act, 2012(POCSO Act).

2. The first informant is a minor girl aged 15 years and 1 month reported to the police about the occurrence of the incident in December, 2024 so also on 21st March, 2025. She claims that on 21st March, 2025, she was forcibly taken from her school by the Applicant and physical relationship were established against her will. On the basis of the said information, offence came to be registered against the Applicant. During the course of investigation, the Applicant was sent for medical examination where the Medical Officer recorded history given by the victim. *Bona-fide* certificate was obtained from the school for the purpose of proving the age of the victim. On conclusion of investigation, chargesheet is filed.

3. Learned counsel for the Applicant submits that there is material inconsistencies in the statement of the victim recorded while registering FIR and statement given to the Medical Officer. In this regard, it is his submission that statement to the Medical Officer shows love affair between the Applicant and the victim. It is submitted that it can be inferred from the record that after the father of the victim came to know

about the said affair, FIR came to be lodged. He further argued that there is no evidence to conclude that the victim was minor at the time of occurrence of the incident. It is his submission that from charge-sheet, it cannot be seen that the *bona-fide* certificate of the school first attended by the victim is relied upon. In this regard, he make reference to the provisions of Section 96 of Juvenile Justice (Care and Protection of Children) Act, 2015 read with Rule 12 framed thereunder. It is his submission that thus at this stage, there is no acceptable evidence to prove that the victim was a minor. He further submits that the Applicant has no criminal history and in view of the fact that the trial is not likely to get over within a reasonable time, the Applicant is entitled for bail.

4. Learned APP and learned counsel for Respondent No.2 opposed the application by submitting that once the victim was found to be below 18 years of age, consent, if any, of the victim for sexual intercourse is immaterial. It is their submission that the victim candidly states that the manner in which the incident has occurred on 21st March, 2025 and which according to them

leaves no room for doubt that this is not the case of consensual sexual relationship. In this regard, reference is also made to the findings recorded by the Medical Officer. Finally it is argued that having regard to the serious nature of crime, the bail be rejected.

5. No doubt the consistent and reliable statement of the victim can be sole ground for conviction of the accused. However, in case discrepancies occurred therein, Court should look for corroboration . *Prima-facie* this Court finds substance in the contention for the learned counsel for the Applicant that there are material inconsistencies in the statement of victim recorded before the police and the history given to the Medical Officer. In the light of these facts, it is pertinent to note that the Investigating Agency has not obtained conclusive evidence in respect of the age of the victim. Though *bona-fide* certificate issued by the school is part of charge-sheet, there is nothing on record to indicate that the said *bona-fide* certificate is issued by the school, first attended by the victim. This Court therefore, finds *prima-facie* substance in the contention of the learned

counsel for the Applicant that the prosecution may not be able to prove the age of the victim conclusively. Apart from this, in absence of any such evidence, it was expected from the Investigating Agency to send the victim for ossification test in order to determine her age. Record does not indicate so.

6. The Applicant has no criminal history and is not likely to flee from justice. There is no possibility of the trial being commenced and concluded in the reasonable period of time. At this stage, learned counsel for Respondent No.2 submits that in case the Applicant is enlarged on bail, he is likely to pressurize the victim. Learned counsel for the Applicant on instructions submits that the Applicant will not enter the jurisdiction of Santa Nagar Police Station till conclusion of trial. Hence the following order :-

ORDER:

- a). The Application stands allowed.
- b). The Applicant be enlarged on bail in connection with Crime No.248 of 2025 registered with Santa Nagar Police Station, Mumbai for the offences punishable under Sections

64(2) (i), 64(2) (m), 65, 351(3) of Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) and under Sections 4, 6, 8, 12 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) on furnishing PR bond of Rs. 15,000/- with one surety in the like amount to the satisfaction of the Trial Court.

c). The Applicant not to contact victim or any witness in any manner whatsoever.

d). As undertaken, the Applicant not to enter jurisdiction of Samta Nagar Police Station till conclusion of trial.

e). It is clarified that above observations are *prima-facie* in nature and would not bind Trial Court / parties during trial.

(R.M. JOSHI, J.)