



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

CRIMINAL BAIL APPLICATION NO. 130 OF 2022

Sunny Premsingh Bike ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

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Mr. Ganesh Gupta a/w Mr. Deepak Gupta i/by G.G.Legal Associates,
Advocate for the Applicant.

Ms. Shanice Mansukhani, Advocate for Respondent No.2.

Mr. N.B Patil, APP for the Respondent – State.

Mr. Kollure (PSI) Vimantal Police Station, Present.

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CORAM : **PRAKASH D. NAIK, J.**
DATE : **20th OCTOBER, 2022.**

PER COURT:

1. The applicant is arrested on 13.06.2021 in connection with C.R. No.481 of 2020 registered with Vimantal Police Station, Pune for offence punishable under Section 363, 366-A of Indian Penal Code (for short “IPC”) and subsequently Sections 376 of IPC and Sections 5(l) and 6 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’) have been invoked.
2. The First Information Report (for short ‘FIR’) was lodged by the mother of victim alleging that on 18.06.2020, the victim told her that she is going for work and did not return home. Attempts

were made to search her but she could not be traced. The FIR was lodged against unknown person. The victim and the applicant were found together on 26.08.2020 at Saswad. She was brought to the Police Station. Her statement was recorded on 27.08.2020. Thereafter, the applicant was arrested. Investigation is completed and charge-sheet is filed.

3. On perusal of statement of victim girl dated 27.08.2020 it can be seen that she was acquainted with the applicant. On 18.06.2020 she met the applicant. She sat on his motorcycle, thereafter, both of them went towards the Wagholi village. The victim asked the accused about the destination. He told her that he has kidnapping her. She was taken to lodge. They waited there for two hours. Thereafter, in search of the room premises, they reached Sanaswadi, Taluka Shirur, Dist. Pune. They got room at Sanaswadi and since then the victim was stayed with the accused till they were traced. It is also stated that she wore Mangalsutra and the accused represented that they were married. They were stayed together. There was physical relationship on several occasions. Statement under Section 164 of Cr.PC. was recorded wherein she has stated that she left along with accused on 18.06.2020. She stayed with him as his wife. There was physical

relationship between them on several occasions. She was traced by the Police on 27.08.2020 and handed over to her mother.

4. Learned Advocate for the applicant submits that the relationship was of consensual nature. The applicant is in jail for more than one year. The victim and the applicant stayed together. Statement under Section 164 of Cr.PC does not indicate that the victim was forced to have physical relationship. The victim was of understanding of age.

5. Learned APP submitted that the consent is immaterial, since the victim was minor. Her statement was recorded under Section 164 of Cr.PC. indicate that the accused took her on motorcycle without disclosing that they are going to some place and thereafter they proceeded to some place, where there was physical relationship.

6. Learned Advocate for respondent No.2/complainant submits that the victim is minor aged around 16 years. The material on record indicate that the accused was married person having children. He was absconding. He went to Nepal and subsequently he was arrested.

7. In rejoinder learned Advocate for the applicant submitted that the applicant was making attempts to apply for anticipatory

bail, thereafter arrested and since then he is in custody.

8. It is true that the victim is minor. She was aged around 16 years. Her statement indicate that she got acquainted with the accused. She left with him on 18.06.2020. She was taken to various places. They stayed together as husband and wife. They searched the room premises for stay. There was physical relationship between them on several occasions. Till the victim was traced she was in company of the accused. Considering these facts, the applicant need not be subjected to further custody.

9. Hence, I pass the following order:

ORDER

- i. Criminal Bail Application No.130 of 2022 is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R. No.481 of 2020 registered with Vimantal Police Station, Pune on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- iv. The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;

- v. The applicant shall not tamper with the evidence and shall not approach the victim.
- vi. Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)