

**IN THE COURT OF SESSIONS,
BORIVALI DIVISION, DINDOSHI, MUMBAI
BAIL APPLICATION (EXHIBIT-2)
IN
POCSO SPECIAL CASE NO.446 OF 2018
(MHCC05-004965-2018)**

Rajkumar Rohitkumar Yadav alias Rajan Guatam

Age : 19 Years, Occ. : Student.

R/o. Idrisi Society, Indira Nagar,

Rani Sati Marg, Malad (E), Mumbai.

....Applicant/accused

V/s.

The State of Maharashtra

(Through Kurar Police Station)

.....Respondents

Advocate Mr. Mohd. Majid Siddiqui for Applicant/accused.

Spl.P.P. Smt.Chuhan for the State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE,
SMT. A. D. Deo, (C.R.NO.11)**

DATE : 13th December, 2018

O R D E R

The applicant has moved this application U/section 439 of the Code of Criminal Procedure 1973 (hereinafter referred as “Cr.P.C ”) for grant of bail in C.R. No.452/2018 for the offences punishable U/sec. 376 (2) of the Indian Penal Code read with sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 (Hereinafter referred to as “POCSO Act” in short) registered with Kurar Police Station.

2. Perusal of the FIR reveals that the informant is the maternal aunt of the victim. The victim is aged 16 years. According to the informant, since 15/08/18 the victim was vomiting but she did not go to the doctor. On 19/08/18 as the victim was having excessive vomiting so she was taken to nearby nursing clinic. On 20/08/18 it was revealed that she was two

months pregnant. The victim being minor, it was reported to Kurar Police Station. In the presence of the police, the victim told that she is acquainted with a boy named Rajan Yadav who is residing just 3-4 houses adjacent to her house. The accused told her that he loves her and as the victim also likes him, they were having love affair for more than six years. The victim would frequently talk with the accused on the mobile phone. Somewhere in the month of June 2018 the accused met the victim in the college. Thereafter on the pretext of chit-chatting, he got her at his house. At that time nobody was with her. He kept intimating with her though she was resisted him. The accused had forceful sexual intercourse with her. He did similar act twice after the first incident. Again in the month of July 2018 the accused had sexual intercourse with the victim on the pretext of performing marriage with her. Based on this information, the FIR mentioned (*supra*) came to be registered against him.

3. In the bail application filed on behalf of the accused vide Exh.2, it is submitted that he is innocent and falsely implicated in the matter. From the FIR itself it is apparent that the victim was in a love affair since past six years and she has been in the company of the accused. The FIR would reveal that the accused and the victim had established sexual relations with each other for multiple times. Despite this she never raised voice against the accused. According to the applicant, the facts in the case of ***Sunil Mahadev Patil V/s. The State of Maharashtra reported in 2016 All MR (Cri) 1712*** are applicable to the facts in case in hand. The accused is an young boy of 19 years. According to the applicant, no fruitless purpose will serve by detaining him in jail. Bail is rule and rejection is exception. He undertakes to face trial. He will abide by every condition imposed. It is prayed that he be granted bail.

4. The prosecution resisted the bail application by filing say vide Exh.4 on the grounds that the accused is not having permanent residential place in Mumbai, not in Maharashtra. He does not have permanent place of employment. There is threat to the life of the witnesses if he is granted bail. There is also possibility that he may tamper with the prosecution evidence. He may pressurize the prosecution witnesses and he may abscond and would not remain present for facing trial.

5. Heard the Learned Advocates for both the sides. Both of them submitted in tune with their respective pleadings.

6. The Learned Advocate for the applicant in addition to the contents of the bail application submitted that the accused is intending to perform marriage with the victim. As the family of the informant was against the relationship of the victim and the accused, they have falsely implicated him. He prayed to grant to bail.

7. Per contra, the Learned APP submitted that the statement of the victim would reveal that when she informed about her pregnancy to him, he switched off his mobile phone and did not contact her. Her pregnancy was terminated and DNA report is awaited. Considering the submissions, this is not the case to grant bail.

8. In order to appraise the submissions before me, I perused the Charge-sheet. *Prima-facie* it appears that she was having love affair with the accused from last six years but the sexual relationship between them was established on the false promise of marriage with her. She was two months pregnant. The statement would reveal that the accused established

sexual relations with her by promising her that he would perform marriage with her. The date of birth of the victim is 06/09/2001. Considering the fact that the victim conceived out of sexual relations established by the accused and the fact of DNA report is awaiting, I do not find this case is fit for granting bail. Hence, I pass following order :-

ORDER

Bail Application Exhibit-2 stands rejected and disposed of accordingly.

Date : 13.12.2018

**(A. D. DEO)
ADDL.SESIONS JUDGE
CITY CIVIL & SESSIONS COURT,
BORIVALI DIVISION, DINDOSHI**

Dictated on : 13.12.2018
Transcribed on : 19.12.2018
Checked and corrected on : 21.12.2018
Signed on : 21.12.2018
Sent to Dept. on :

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

UPLOAD DATE
AND TIME : 02/01/2019 at 12.51 p.m.

Mrs. Vidya Pendharkar
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ A. D. Deo (Court Room No.11)
Date of Pronouncement of Judgment/Order	13/12/2018
Judgment/Order signed by P.O. on	21/12/2018
Judgment/Order uploaded on	02/01/2019