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MHCC050033542021



**IN THE SESSIONS COURT FOR GR.BOMBAY,
BORIVALI DIVISION, DINDOSHI, GOREGAON, MUMBAI.**

BAIL APPLICATION EXH.06
(C.N.R.NO. MHCC05-003354-2021)

IN
SPECIAL CASE NO.244 OF 2021
IN C.R.NO.27 OF 2021
AIR PORT POLICE STATION

Sagar Manoj Gupta,

Age : 18 years,

R/a : 566, Shashtri Nagar, Near Domestic

Airport, Western Express Highway Road,

Vileparle (E), Mumbai - 400 099.

...Applicant

Versus

The State of Maharashtra

(Through Inspector of police,

Air Port Police Station,Mumbai.)

...Prosecution.

CORAM: H.H.THE SPECIAL JUDGE,
SMT.S.M.TAKALIKAR, (C.R.NO.12)

DATE : 6th August, 2021.

Learned APP Ms. Chauhan for State.

Learned Advocate Ramji Gupta for applicants /accused.

: ORDER:

Present application is filed by the applicant for regular bail under Section 439 of the Code of Criminal Procedure in connection with

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C.R. No.27/2021 registered with Airport police station for the offences punishable under Sections 376, 376 (2) of IP Code read with Sections 4, 6, 8 and 12 of POCSO Act.

Facts in brief of prosecution case is as under :

2. The the informant is 16 years and 4 months old. It is alleged that the informant/victim and the applicant/accused knows each other since last 2 years. The applicant/accused on 02.12.2020 had forcible sexual intercourse with the informant and promised that he will perform marriage with her. Thereafter again on 09.03.2021, the applicant/accused had forcible sexual intercourse with her due to which she become pregnant. Thereafter she inform this fact to her mother. Her mother brought her to the police station and lodged complaint against the applicant/accused. On that basis, the above mentioned crime has been registered against this applicant/accused.

3. The applicant in his application has stated that the victim and the applicant are in love with each other. The applicant wants to perform marriage with the victim, after she completed 18 years of her age. Since last 2 years they are in love affair with each other. The applicant is of 18 years age. The applicant has no criminal antecedents. He is permanent resident of Mumbai. Hence, it is prayed for regular bail.

4. The prosecution filed say below Exh.06. It is contended that nature of offence is serious. DNA report is yet to be received. Statement of victim under Section 164 of Code of Criminal Procedure is yet to be

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recorded. Statements of the witnesses are yet to be recorded. The victim and witnesses are resident of the same locality where the applicant resides. Therefore, there is possibility of threatening and tampering with the witnesses.

5. The victim/informant has filed her say below Exh.07. It is contended that since last 2 years she knows the applicant. The sexual intercourse was with her consent. She has no objection for granting of bail to the accused/applicant.

6. Learned advocate for the applicant in his arguments has submitted that the victim and the applicant are in love with each other. The victim is consenting party. The applicant is ready to perform marriage with the victim. Chargesheet is filed. Hence, he prayed that applicant be released on bail.

7. The learned APP has invited my attention towards the statement of the victim submitted that the applicant has forceful sexual intercourse with the victim due to which she become pregnant. DNA report is not yet received. Hence, she prayed for rejection of the application.

8. Perused application. Say filed. Also perused consent form of the victim.

9. I have gone through the charge sheet. The age of the victim is 16 years 4 months and the age of the applicant is 18 years. In this case

charge sheet has been submitted.

10. Upon perusal of the statement of victim recorded under Section 164 of the Code of Criminal Procedure, it appears that there is no mention that the applicant had forceful sexual intercourse with the victim. There is mention that both the victim and the applicant are in love with each other since last 2 years. Further, upon perusal of the history stated by the victim before the medical officer, it is mention that the sexual intercourse with the victim was consensual. In this case, victim has given no objection, but taking into consideration, the age of the victim i.e. 16 years 4 months, in my opinion, victim is at the sufficient age of understanding and had knowledge what she has done. The age of the accused is 18 years. The record shows that there is love affair between the victim and the applicant since last 2 years. In her statement before the magistrate victim has not stated that any force is used with her. Further the record speaks that the applicant is permanent resident of Mumbai.

11. Taking into consideration, all these above mentioned facts, in my view, the applicant has made out just, proper and reasonable grounds for release on bail. Therefore, the application deserves to be allowed. Resultantly, I passed following order :-

ORDER

1. Bail Application(Exh.06) is hereby allowed.
2. Applicant/Accused **Sagar Manoj Gupta** be enlarged on bail on his executing **P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand Only)** with **One or Two solvent sureties** in like amount in C.R.No.27/2021 for

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the offences punishable under Sections 376, 376 (2) of IP Code read with Sections 4, 6, 8 and 12 of POCSO Act, registered with Air Port Police Station on the following conditions :-

- a) He shall report to concerned Police Station twice i.e. in second week **and forth week** of every month on Wednesday **in between 5.00 p.m. to 7.00 p.m.** and as and when called by I.O. till completion of trial.
- b) He shall not leave India without permission of the Court till completion of trial.
- c) He shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case. **He shall not threaten, pressurize the complainant.**
- d) He shall attend the Court regularly on the date fixed and shall not remain absent for hearing unless exempted by the Court through his Advocate.
- f) He shall not commit similar offence again.
- g) The near relatives of the applicant to execute affidavit-cum-undertaking with identity, before the I.O. of concerned Pl. Stn. stating that he will take care of applicant, shall quarantine him in the house for 14 days after his release, the applicant will obey all conditions imposed in bail order of this Court.
- h) **The jail authority is directed to get the medical test of the applicant be done and be released him with the report only if he is not suspected of N-COVID 19. Otherwise he should not be released.**
- i) On violation of any above conditions, bail shall stand

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cancelled without intimation.

3. Bail Application Exh.06 stands disposed of accordingly.

Date : 06.08.2021

(S. M. TAKALIKAR)
Additional Sessions Judge
Borivali (Div), Dindoshi, Goregaon

Dictated on : 06.08.2021.

Transcribed on : 06.08.2021.

Signed on : 07.08.2021.

Sent to Department on:

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

UPLOAD DATE AND TIME : 07.08.2021 at 12.05 PM

NAME OF STENOGRAPHER : Ms. MANISHA D. HIROLE

NAME OF THE JUDGE	:	HHJ SMT. S. M. TAKALIKAR (C.R.NO.12)
Date of Pronouncement of Order	:	06.08.2021.
Order Signed by the P.O. on	:	07.08.2021.
Order uploaded on	:	07.08.2021.