

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

CRIMINAL BAIL APPLICATION NO. 114 OF 2021

Maruti @ Vipul Jagannath Mote ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr. Dhairyasheel Sutar a/w Nirmal Pagaria and Krati Garg for
the Applicant.

Mr. Y.Y. Dabke, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 1 MARCH 2022

P.C.

1. By this application, the Applicant is seeking release on bail in Crime No. 962 of 2020 registered with Sangola Police Station, Dist. Solapur under Section 376, 323, 506 of IPC and Section 3, 4 and 5 of the Protection of Children from Sexual Offences Act, 2012.

2. The aforesaid crime is registered on the basis of the complaint lodged by the victim girl on 13.07.2020 with Police Station Sangola. The FIR discloses that the victim at the relevant time was 17 years and 1 month old. According to her, the Applicant was acquainted to her and had sexually abused her on multiple occasions.

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3. In this case, a notice was issued to the Respondent/informant. However, the same was received without any endoresement the Investigating Officer, about service. Hence, by an order dated 05.10.2021, this Court (Revti Mohite-Dere, J) had directed the Investigating Officer of Police Station Sangola to remain present along with investigation papers and the Superintendent of Police, Solapur Rural was directed to ensure that the concerned Investigating Officer remains present with necessary instructions. The learned APP states that the order was communicated to the Investigating Officer. However, there is no response.

4. Such a situation cannot be countenanced. However, for the purposes of deciding on further course of action pursuant to the order dated 05.10.2021, I find that the application for bail may not be kept pending, inasmuch as the informant as well as her mother has filed an affidavit dated 20.10.2020 before the learned Sessions Judge that they do not have any complaint against the Applicant. The affidavit also records that the victim girl by that time had completed the age of 18 years.

5. The learned counsel for the Applicant states that in the meantime, the trial has commenced and the evidence of informant is recorded on 04.03.2021. A copy of the deposition is produced on record and marked "X" for identification. The

informant has not supported the prosecution case of sexual abuse. In the aforesaid circumstances, I do not find any justification to detain the Applicant behind bar pending the conclusion of the trial. However, it is made clear that the learned Special Judge shall decide the case on its own merits on the basis of the entire prosecution evidence as may be led. The deposition of the victim is being considered only for the limited purpose of grant of bail at this stage.

6. In the result, the following order is passed:

ORDER

- i) The Applicant **Maruti alias Vipul Jagannath Mote** be enlarged on bail on furnishing a PR bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.
- ii) The Applicant shall undertake to remain present during the course of trial unless exempted.
- iii) The Applicant shall not directly or indirectly make any attempt to influence and shall not otherwise tamper with the prosecution evidence.
- iv) The Applicant shall not leave the jurisdiction of the learned Special Court without prior intimation/permission.
- v) The Criminal application is disposed of in the aforesaid terms.
- vi) Stand over to 22.03.2022 in order to decide further course of action in pursuance of the order dated 05.10.2021.

vii) The learned APP to communicate this order to the Investigating Officer as well as to the Superintendent of Police, Solapur Rural.

(C.V. BHADANG, J.)