

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

CRIMINAL BAIL APPLICATION NO. 2946 OF 2021

Laxman Prabhakar Kamble

...Applicant

Vs.

The State of Maharashtra & Anr.

... Respondents

Ms. Vilasini Balasubramanian i/b. Mr. Jaydeep Mane, for the Applicant.

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

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**CORAM : C.V. BHADANG, J.
DATE : 1 APRIL 2022**

P.C.

. The Applicant is seeking bail in Crime No.352/2020 of Police Station Mohol, Solapur Rural, under Section 376 and 511 of IPC and Section 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The aforesaid crime is registered on the basis of the complaint dated 7 June 2020 lodged by mother of the victim girl. The victim at the relevant time was aged about five years. The allegation is that the Applicant who is residing near the house of the informant, had taken the victim to his house, removed her

clothes and applied oil to her private parts. The informant went searching for the girl to the house of the Applicant when she found that the victim girl was present in the house of the Applicant without clothes and she also found that oil was applied to her private parts. On the basis of such complaint, the offence came to be registered and after investigation, a chargesheet is filed.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. Vide Clause 22 Medical Officer has found that there was no necessity of examination as the only allegation was of application of oil to anus and there was no complaint of sexual violence. In such circumstances, it appears that there was no examination of the child and therefore there is no opinion forthcoming. There cannot be any dispute that the incident by any standards is serious as the girl was only stated to be of five years. However, it is necessary to note that the offence may not fall under Section 4 of the POCSO Act as there is no 'penetrative sexual assault', as defined under Section 4 of the POCSO Act. Prima facie, it can be seen that the act would be covered by Section 7 of the said Act which provides for 'sexual assault', which is punishable under Section 8 of the said Act which provides maximum sentence of five years. The Applicant was arrested on

9 June 2020 and is in custody since then. The investigation is complete and the chargesheet is filed. I do not find any justification to detain the Application behind bars pending trial.

5. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Laxman Prabhakar Kamble, be released on bail in Crime No.352/2020 of Police Station Mohol, Solapur Rural, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.
- (iii) The Applicant shall undertake to remain present before the learned Special Judge during the course of trial, unless exempted.
- (iv) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.
- (vi) Bail bonds to be furnished before the learned Special Judge.

C.V. BHADANG, J.