

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

BAIL APPLICATION NO.203 OF 2022

Rohit @ Rohan Maruti Bansode

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Ritesh Thobde for the Applicant.

Mr. S.V. Gavand, APP for Respondent -State.

Mr. Madan Gupta, appointed Advocate for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th APRIL, 2023.

P. C. :-

1. Not on board. Upon being mentioned, taken on board.
2. This is an application under Section 439 of the Cr.PC. filed by the aforesaid Applicant, who is facing trial in Special Case No.203 of 2021 pending on the file of learned Additional Sessions Judge, Solapur. The said cases arises from C.R. No.220 of 2021 registered with Vijapur Naka Police Station, District-Solapur, for the offences punishable under Sections 323, 363, 376, 380, 385, 452, 504 r/w 34 of the IPC and Sections 4,8, 10, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012.

3. Mr. Thobde, learned counsel for the Applicant states that the victim was 17 years of age and on the verge of attaining majority. He states that relationship between the Applicant and the victim was consensual. He further submits that the Applicant has suffered a paralytic stroke and hence this is a fit case to release him on bail.

4. Mr. S.V. Gavand, learned APP for the Respondent-State submits that the victim was below 18 years of age. He further submits that the Applicant had sexual relationship with a minor and thereafter threatened to strangle her and had also compelled her to slash her wrist. He further submits that the Applicant has been given treatment and presently does not have any medical ailment.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The crime against the Applicant was registered pursuant to the FIR lodged by the father of the victim girl. A perusal of the FIR reveals that on 16/05/2021 at 5.00 p.m. the victim had left the house to go to the play ground. She did not return home. One of the friends of the victim informed the First Informant that she had seen two boys assaulting the victim and taking her somewhere on a scooter. The First Informant was unable to trace the victim. Subsequently, the First

Informant learnt that the Applicant was one of the persons, who was involved in kidnapping the minor girl. He states that the victim returned home at about 8.30 p.m. and told him that the Applicant and his friend Sumit, had come near the building with Activa Scooter. The Applicant questioned her as to why she had come down to play and assaulted and abused her. He thereafter made her to sit on the Activa Scooter and took her near Pushpasneh Mangal Karyalay and once again assaulted her. Based on the information given by the victim, the FIR came to be lodged against the Applicant and the co-accused-Sumit.

7. The statement of the victim prima facie reveals that she knew the Applicant since 27/10/2010. She claims that the Applicant called her near Gurudwara at Antrolkar Nagar and took her to one lodge and had forcible sexual relationship with her. The victim states that the Applicant would visit her house in the absence of her parents and have sexual intercourse with her under the threat of making her obscene photographs and videos viral. She claims that the Applicant had also taken away her gold ring and would constantly demand money from her. Due to his persistent demands, she borrowed money from her mother and gave it to the Applicant herein. She has stated that the Applicant had taken away wine bottles from her house and

had taken her to the lodge 4/5 times and had sexual relationship with her.

8. The victim claims that the Applicant would threaten her not to play with other children and not to talk to other boys. She claims that once when the Applicant learnt that she had sent a message to her facebook friend, he came to her house, slapped her and tried to strangle her. On another occasion when the Applicant learnt that she had gone to play with the children, he made a video call and told her to cut her wrist as punishment and show him the blood. When she refused to cut her wrist, he threatened to come to her house. The victim states that due to fear she cut her wrist with a cutter and showed him the blood.

9. She has stated that on 16/05/2021 when she was playing in the parking area of the Apartment, the co-accused -Sumit called her and told her that the Applicant was waiting outside. When she went near the gate and told the Applicant to go away, the Applicant abused and assaulted her. It is stated that thereafter the Applicant threatened to beat her if she did not accompany him on his Acura. It is stated that the Applicant took the victim to a garden close to Gurunank Chowk and told her to name Yogi Deshmukh, in case her parents inquired

about her whereabouts.

10. The statement of the victim prima facie reveals that the Applicant had not only abused her sexually but he had tried to strangle her and compelled her to punish herself by cutting her wrist and to show him the blood. The statement of the victim prima facie reveals that the Applicant was exercising coercive control over her. He has abused her sexually, physically and emotionally. Considering this conduct and the fact that the evidence of the victim is not yet recorded, it would not be safe to release the Applicant on bail at this stage as the possibility of the Applicant threatening and harassing the victim cannot be ruled out.

11. The records reveal that the Applicant had suffered a stroke. However, the report placed on record by the learned APP indicates that he was given due treatment and that the Applicant has recovered. Furthermore he is being given medical treatment as and when required. Under the circumstances, it would not be in the interest of justice to release the Applicant on bail at this stage either on merits or on medical grounds. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)