

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

BAIL APPLICATION NO. 209 OF 2023

RANJIT KUMAR SONI

.. APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Ms. Mallika Ingale, for the Applicant.

Ms. Keral Mehta, for Respondent No.2.

Mr. N.B. Patil, APP for the State.

PSI- Mr. Satam B.E., Goregaon Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 1, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under sections 376, 377, 504 of the Indian Penal Code (hereafter 'IPC' for short) and under sections 4, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO", for short) registered vide C.R. No. 631 of 2022 with Goregaon Police Station. The FIR is dated 27/05/2022. The applicant arrested on 27/05/2022.

3. At the time of incident, the victim was around 15 years and 5 months of age, admittedly a minor. The applicant was 24 years of age. He is an artist. The applicant was residing in the opposite flat where the victim was residing. The applicant was residing with some of his friends. In her statement, the victim has narrated the incidents which has resulted in the alleged offence under the aforesaid sections. From the materials on record and whats-app chats, prima facie, I am of the opinion that the relationship between the applicant and the victim may be that of a love relationship leading to a consensual physical relationship. However, having regard to the provisions of the POCSO, the victim being a minor, her consent is immaterial while prosecuting the applicant. Learned counsel for the applicant urged that the victim was of age of understanding and she was very well knowing the consequences of such a relationship.

4. Learned APP and learned counsel for the respondent no. 2 opposed the application and submitted that the applicant having induced a minor into such relationship, the applicant ill-treated the victim and taken advantage of her, being a minor unable to understand the consequences.

5. The applicant was arrested on 27/05/2022 and now in custody

for more than 1 year and 3 months. Though prima facie, the relation appears to be consensual, such consensual relationship is not a circumstance which can be considered in favour of the applicant having regard to the provisions of the POCSO Act. The victim was 15 years and 5 months of age at the relevant time and of a age of understanding according to learned counsel for the applicant. Suffice it to observe that the applicant is in custody for 1 year and 3 months with possibility of trial concluding any time soon appears to be remote. The applicant an artist, 24 years of age had come to Mumbai in search of work. The applicant will face the consequences if he is found guilty post trial. Any further incarceration would amount to a pre-trial punishment. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. Learned counsel for the applicant submitted that the applicant will not reside in the area of Goregaon Police Station till the conclusion of trial and will not establish any contact with the victim. These are the prima facie observations for the purpose of considering the bail application. The trial to proceed on its own merits uninfluenced by these observations. Hence, the following order :-

ORDER

- (a) The application is allowed.

(b) The applicant-Ranjit Kumar Soni in connection with C.R. No.631 of 2022 registered with Goregaon Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the investigating officer of the Goregaon Police Station once in two months commencing from September 2023 on every first Monday of the alternate month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(g) The applicant shall not enter the jurisdiction of Goregaon Police Station till the trial concludes except for the purpose of attending the investigating officer and attending the trial.

(h) The applicant shall not establish any contact with the victim.

6. The application is disposed of.

(M. S. KARNIK, J.)