



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

BAIL APPLICATION NO. 507 OF 2023

KENEL ANIL THAKKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Adv. Abhijit N. Mantri for the Applicant.

Adv. Aadesh Konde-Deshmukh for Respondent No.2.

Ms. Rutuja Ambekar, APP for the State.

API Jitendra P. Koli, Malad Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 13, 2023

P.C. :

- 1.** Heard learned counsel for the applicant, learned counsel for respondent No.2 and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 363 and 376 of the Indian Penal Code and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, registered on 24/07/2022 vide C.R. No.1050 of 2022 with Malad Police Station, Mumbai.
- 3.** At the relevant time, the applicant was 19 years of

age and the victim was 13 years and 5 months of age. The statement of the victim was recorded on 23/07/2022. It is the case of the prosecution that the victim called the applicant on telephone and thereafter both of them travelled together. The applicant was responsible for committing acts on the victim which is an offence punishable under the aforesaid sections. The relationship between the applicant and the victim appears to be consensual in nature.

4. Learned APP as well as learned counsel for respondent No.2 vehemently opposed the application and submitted that looking at the age of the victim her consent is immaterial.

5. The applicant at the relevant time was 19 years of age and was studying in 12th standard and was arrested on 30/07/2022 and is now in custody for more than 1 year and 4 months as an undertrial. The possibility of trial concluding any time soon appears remote. There are no criminal antecedents reported. The investigation is complete and the charge sheet has been filed. Any further incarceration of the

applicant in the facts and circumstances of the present case only will be by way of a pre-trial punishment. The applicant will face the consequences post-trial if found guilty. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Kenel Anil Thakkar in connection with C.R. No. 1050 of 2022 registered with Malad Police Station shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 15,000/- for a period of 6 weeks in lieu of surety.
- (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) The applicant shall not establish any contact, threaten or intimidate the victim or any of the witnesses.
- (f) 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) Except for the purpose of reporting to the Investigating Officer, the applicant shall not enter into the jurisdiction of Malad Police Station after being released on bail, till the trial concludes.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Advocate Aadesh Konde-Deshmukh, who appeared on behalf of respondent No.2 in this proceeding. His engagement may be regularized by the Maharashtra State Legal Services Authority if he is on the panel or else he may be paid fees/honorarium quantified at Rs.5000/-.

(M. S. KARNIK, J.)