



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

BAIL APPLICATION NO. 1214 OF 2023

PAWAN RAMLOTAN KORI
VS.

..APPLICANT

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Rahul Kasbekar, for the Applicant.
Mr. Varad Kilor, for Complainant.
Mr. P. H. Gaikwad, APP for the State.
PSI- Mr. Raut Malvani police station present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 18, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application through jail for bail in respect of the offence punishable under sections 363, 366(A), 368, 376, 354 of the Indian Penal Code, 1860 and under sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO', for short) registered on 12/05/2022 vide C.R. No.561 of 2022 with Malvani police station. The applicant was arrested on 17/05/2022.
- 3.** This is an application through jail. The applicant at the

relevant time was 22 years of age. The victim was 17 years and 4 months of age at the relevant time. The applicant and the victim were known to each other. The missing complaint was lodged by father of the victim. Pursuant to the victim's arrest, it was revealed that the applicant induced the victim to go along with him. The applicant had forcible sexual intercourse with the victim against her consent. Prima facie, I find that the relationship between the applicant and the victim is consensual in nature. I do find substance in the contention of the learned counsel for respondent no.2 that the victim being a minor, such consent is immaterial. Learned counsel for respondent no.2 as well as learned APP further submitted that even the medical history supports the case of the prosecution.

4. Learned counsel for respondent no.2 placed reliance on the decision of this Court in the case of ¹**Housiram Baban Pardi Vs. State of Maharashtra**. I find that the facts in Housiram Baban Pardi's case are distinguishable. The applicant therein was 32 years of age, already married and having 2 children. In those circumstances this Court observed that the submission of learned counsel for the

1 2020 SCC OnLine Bom 11556

applicant that there was a love relationship cannot be accepted. In the present case, considering the age of the victim, in the facts and circumstances of the present case, the victim appears to be of the age of understanding. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant is in custody from 17/05/2022 for a period of 1 year and 7 months. Looking at the age of the applicant and taking an overall view of the matter, since the trial is likely to take a long time to conclude, the applicant can be enlarged on bail. The applicant will face the consequences post-trial if found guilty. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Pawan Ramlotan Kori in connection with C.R. No.561 of 2022 registered with Malvani police station shall be released on bail on his/her 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) 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.

(f) Except for attending the trial and for the purpose of reporting to the investigating officer, the applicant shall not enter the jurisdiction of Malvani police station after being released on bail, till the trial concludes.

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

5. The application is disposed of.

6. I appreciate the valuable assistance rendered by Mr. Varad Kilor, the learned Advocate, 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.)