



PMB

932.ba.3189-23.doc

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

BAIL APPLICATION NO.3189 OF 2023

KIRAN RAJU SOLANKI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Nilofar Sayyed i/b. Adv. Roohita Shaikh for the
applicant.

Mr. P. H. Gaikwad, APP for the State.

Adv. Saakshat Relekar for the complainant.

API Dhanraj Prabhale, APMC Police Station.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 10, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence
punishable under Sections 363, 376(3), 376(2)(n), 366A,
506 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 (hereafter "POCSO Act", for
short) registered on 13.12.2021 vide C.R. No.0456 of 2023
with A.P.M.C. Police Station, Navi Mumbai.

3. At the relevant time the victim was 15 years and 5 months old. The applicant was 20 years of age. It is the case of the victim that on the date of the incident i.e. 12.12.2021 the applicant took her away by force and told that they should elope and marry each other. The victim refused. The applicant was arrested on 03.02.2022. Till the date of the arrest the applicant and the victim were staying together.

4. Learned APP and learned counsel for the complainant submitted that the victim in her statement as well as the statement recorded under Section 164 of the Code of Criminal Procedure has clearly stated that she was taken away by the applicant against her wish and that he had sexual relations with her against her wishes. Though there is some substance in the contention of learned counsel for the applicant that the possibility of the relationship being consensual cannot be ruled out, however, considering that the victim is a minor the consent of the victim is immaterial.

5. The applicant is 20 years of age who is now in custody since 03.02.2022 for a period of one year and nine months.

The trial is likely to take a long time to conclude. There are no criminal antecedents reported against the applicant. Looking at the age of the applicant and in the facts and circumstances of the present case I am inclined to enlarge the applicant on bail as further custody of the applicant will only be by way of pre-trial punishment. The applicant will face the consequences of the trial if found guilty. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Kiran Raju Solanki in connection with C.R. No.0456 of 2023 registered with A.P.M.C. 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) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer as well as trial Court and shall keep him updated, in case there is any change.

(f) Except for attending the trial the applicant shall not enter the area of Thane and Navi Mumbai District 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.

6. The application is disposed of.

7. I appreciate the assistance rendered by Mr. Saakshat Relekar, learned Advocate, who appeared on behalf of the complainant in this proceeding. Learned advocate may be paid the fees as prescribed by the Legal Aid Services Authority or if not prescribed, the same is quantified at Rs.5000/-.

(M. S. KARNIK, J.)