

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

**Bail Application No.3731 of 2023**

Eknath Nivrutti Athavale,

Age: about 33 years, Occ: Driver,

R/o: Village Jamgaon (Bu), Tal: Mohol,

Dist: Solapur - 413253

...Applicant

v/s.

1. State of Maharashtra

(At the instance of Sr. Police Inspector,  
Kamati Police Station, Dist: Solapur Rural),  
Notice be served on Learned A.P.P.,  
Criminal Appellate Side,  
Bombay High Court, Mumbai – 32,

2. XYZ,

(Informant & Victim in C.R. No.0091 of 2023  
Registered with Kamati Police Station,  
Solapur Rural),  
C/o: Kamati Police Station,  
Solapur Rural.

...Respondents

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Mr Anvil Kalekar, for the Applicant.

Mr Yogesh Y Dabke, APP, for Respondent State.

Ms Ashwini Jadhav, i/b. Sameer Mhatre, for Respondent No.2.

ASI Salve, Kamti Police Station, Solapur Rural, is present.

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**Coram : R.N. Laddha, J.**

**Date : 9 October 2024**

**P.C.:**

. Heard Mr Anvil Kalekar, the learned Counsel appearing for the applicant, Mr Yogesh Dabke, the learned Additional Public Prosecutor

representing respondent No.1/ State, and Ms Ashwini Jadhav, the learned Counsel appearing for respondent No.2/ the informant.

2. By this application, the applicant seek bail in connection with CR No.91 of 2023, registered at Kamti Police Station, Solapur, for offences punishable under Sections 376(2)(f)(n), 376(3), 323, 504, 506, 109 read with 34 of the Indian Penal Code, and Sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012.

3. It is the case of the prosecution that the applicant, who is the victim's cousin maternal uncle and is married without children, kept the victim at his residence for a month starting from the Dusshera festival in 2022 and forcibly established sexual relations with her. Due to the victim's father addiction to alcohol and her mother's occupation as a labourer, the victim was unable to report the abuse. Following the applicant's actions, the victim's mother took her to her maternal uncle's residence in Solapur. Subsequently, the applicant repeatedly called the victim's relatives, threatening them to return the victim to his residence.

4. The learned Counsel for the applicant contends that the applicant has been falsely implicated in the present crime. There was a significant delay in lodging the FIR. Additionally, there are discrepancies regarding the victim's date of birth, and the charge sheet lacks medical reports to substantiate any forceful sexual activity

involving the victim. The applicant has been languishing in jail since 27 March 2023. The learned Counsel further asserts that the applicant will not misuse the liberty granted to him if released on bail.

5. The learned Additional Public Prosecutor representing respondent No.1/ State and the learned Counsel appearing for respondent No.2, jointly submit that the offence is heinous and serious, particularly considering the victim was 15 years old at the relevant time and the relations between them of uncle and niece. They contend that the applicant's actions, which included forcefully keeping the victim at his residence and repeatedly raping her, caused significant mental and physical distress to the victim, leading to social isolation and confinement. After the victim's mother took her to Solapur, the applicant continued to harass the victim's relatives and threatened them to send the victim back to his residence.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

7. It appears that at the time of the incident, the victim was a minor aged about 15 years. *Prima facie*, there is material to indicate that the victim was vulnerable, especially given her family circumstances, with her father being addicted to alcohol and her mother working as a labourer, indicating she was in need of support. In these circumstances, the applicant exploited the victim's vulnerability by forcing her into

sexual relations while she was residing at his house. Alarming, their familial connections as maternal uncle and niece exacerbated the abuse of trust. Upon discovering the exploitation, the victim's mother relocated the victim to Solapur, seeking refuge. Nonetheless, the applicant continued to harass and coerced the victim's relatives to facilitate her return to his residence.

8. Sexual exploitation of minors by close relatives is a severe and traumatic form of abuse, warranting life imprisonment. The victim and her mother trusted the applicant for care and protection, making his betrayal deeply emotionally damaging. Given the vulnerable situation, there is a risk that the applicant may manipulate, threaten, or coerce the victim and witnesses. Considering the absence of any discernible motive for fabricating allegations and the advance stage of the trial, this Court exercises caution in granting bail. The severity of the offence carrying a punishment of life imprisonment warrants stringent consideration. In view of this, granting bail at this stage of the trial could undermine the integrity of the trial and impact the testimony of the witnesses. Therefore, in the interest of justice and ensuring the trial's uninterrupted progression, this Court is not inclined to grant bail at this advance stage of trial. Accordingly, the application stands rejected.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits and in

accordance with the law, uninfluenced by the observations in this Order.

(R.N. Laddha, J.)