

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.700 OF 2024

Nikhil Shankar Raje Bhosale	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Sanjeev Kadam i/b. Mr. Kalpesh Patil, Advocates, for the Applicant.
 Ms. Savita M. Yadav, APP, for the Respondent No.1-State.
 Ms. Priya Patil, appointed Advocate, for the Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED: 18th APRIL 2024

P. C.:

1. Heard Mr. Kadam, learned Counsel for the Applicant and Ms. Yadav, learned APP for the Respondent No.1-State and Ms. Patil, learned Counsel appointed to represent the interests of the Respondent No.2.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:-

1.	C. R. No.	719 of 2023
2.	Date of registration of F.I.R.	13/10/2023

3.	Name of Police Station	Akluj, District-Solapur
4.	Section/s invoked	363, 376(2)(n) of the Indian Penal Code, 1860
5.	Date of incident	13/10/2023
6.	Date of arrest	16/11/2023
7.	Date of filing of Charge-sheet	10/01/2024

3. As per the prosecution case, the age of the victim at the relevant time was 15 years and 9 months. The statement of the victim dated 15th November 2023 recorded under Section 161 of the CrPC as well as the statement dated 21st November 2023 recorded under Section 164 of the CrPC shows that the Applicant and the victim were friends and the victim eloped with the Applicant on 12th October 2023 and they lived together upto 15th November 2023.

4. Mr. Kadam, learned Counsel for the Applicant submitted that the position on record shows that the relations were consensual and in any case, the medical evidence does not support the prosecution case and there are no criminal antecedents against the Applicant.

5. On the other hand, Ms. Yadav, learned APP for the Respondent No.1-State and Ms. Patil, learned Counsel appointed to represent the interests of the Respondent No.2 strongly opposed the Bail Application. Both of them submitted that at the relevant time the victim was 15 years and 9 months old. Therefore, she was a minor at the time of the incident. Both of them submitted that statements of the victim show that sexual intercourse was without consent. Therefore, they submitted that the Bail Application be rejected.

6. Perusal of the record shows that in the present case, the incident in question occurred on 12th October 2023 to 15th November 2023, F.I.R. was lodged on 13th October 2023, the Applicant was arrested on 16th November 2023 and, Charge-sheet was filed on 10th January 2024. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

7. *Prima facie*, there is substance in the contention of Mr. Kadam, learned Counsel for the Applicant that relations were consensual and that the victim and the Applicant were lived together for a period of one month.

8. The Applicant does not have any criminal antecedents.
9. The Applicant is a young man aged 23 years.
10. The Applicant does not appear to be at risk of flight.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:-

ORDER

- (a) The Applicant – Nikhil Shankar Raje Bhosale be released on bail in connection with C.R. No. 719 of 2023 registered with the Akluj Police Station, District – Solapur on his furnishing P.R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

- (c) The Applicant shall report to the Akulj Police Station, District - Solapur on the first Sunday of every month between 11:00 a.m. and 1:00 p.m. for a period of one year and thereafter, as and when called by the Investigating Officer.
- (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 such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to

the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations recorded in this order.

15. This Court places on record its appreciation of the assistance rendered by Ms. Priya Patil, learned Counsel appointed to represent the interests of the Respondent No.2. The High Court Legal Services Committee, Mumbai is requested to pay her professional fees as per rules and her name be included in the panel maintained by the High Court Legal Services Committee, Mumbai.

[MADHAV J. JAMDAR, J.]

Note: This Order is modified as per Speaking to the Minutes Order dated 3rd May 2024.

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