

Nirbhay Satish More ...Applicant
Versus
The State of Maharashtra And Anr. ...Respondents

Mr. Kuldeep Nikam a/w Ms. Nishi Singhvi, Advocate for the Applicant.

Ms. Vilasini Balsubramanian, Advocate for the Respondent No.2.

Mr. Tanveer Khan, A.P.P. for the Respondent No.1 – State.

CORAM : N. R. BORKAR, J.
DATE : 5th MARCH, 2025

1. This is an application for regular bail.
2. The applicant came to be arrested in Crime No. 177 of 2024 registered at M.I.D.C. Kupwad Police Station, District : Sangli, for the offences punishable under Sections 376, 376(2) (n), 376(3) of the Indian Penal Code (for short "IPC") and Sections 4, 5(L), 6 & 8 of the Protection of Children from Sexual Offences Act, 2012.
3. According to the prosecution, though the applicant was aware that the victim is minor, he subjected her to sexual intercourse on the pretext that he would be marrying her.

4. I have heard the learned counsel for the applicant, learned A.P.P. for the Respondent No.1-State and learned counsel for the Respondent No.2/victim.

5. The learned counsel for the applicant submits that there was a love affair between the applicant and the victim. It is submitted that the applicant is aged about 20 years and there are no other criminal antecedents against the applicant.

6. On the other hand, the learned A.P.P. for the Respondent No.1-State and the learned counsel for the Respondent No.2/Victim submits that at the relevant time the victim was aged about 15 years and 11 months only. It is submitted that considering the nature of crime, the applicant may not be released on bail.

7. This Court in the case of *Imran Iqbal Shaikh Vs. The State of Maharashtra and Anr. (supra)* has observed thus:

“4. It is true that the victim is a child within the meaning of Section 2(d) of the POCSO Act. The Applicant was also a young boy of 22 years of age at the time of the incident. The statement of the first informant prima facie indicates that the relationship was consensual. It needs to be noted that the POCSO act has been enacted to protect children from offences of sexual assault, sexual harassment

etc., and contains stringent penal provisions as to safe guard the interest and the well being of the children. The object is certainly not to punish minors in romantic or consensual relationship and brand them as criminals.”

8. In the present case also there was a love affair between the victim and the applicant. The statement of the victim shows that their physical relations were consensual. Considering the overall facts and circumstances, I am inclined to release the applicant on bail.

ORDER

- (i) Criminal Bail Application is allowed;
- (ii) The applicant is directed to be released on bail in connection with Crime No. 177 of 2024 registered at M.I.D.C. Kupwad Police Station, District : Sangli, for the offences punishable under Sections 376, 376(2)(n), 376(3) of the Indian Penal Code (for short “IPC”) and Sections 4, 5(L), 6 & 8 of the Protection of Children from Sexual Offences Act, 2012 on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (iii) Application stands disposed of accordingly.

(N. R. BORKAR, J.)