

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

BAIL APPLICATION NO. 4608 OF 2024

Rahul Dnyaneshwar Khandale alias .Applicant
Rahul Dnyaneshwar Khandagale

Vs.

The State of Maharashtra
& Anr. .Respondents

Mr. Vivek N. Arote and Mr. Akshay Dingale, Advocates, for the Applicant.
Ms. P.P. Bhosale, APP, for Respondent No.1 – State.
Ms. Mamta Magare, Advocate, for Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.

DATE: 6th January 2025

P. C.

1. Heard Mr. Arote, learned Counsel appearing for the Applicant, Ms. Bhosale, learned APP appearing for Respondent No.1–State and Ms. Mamta Magare, learned Counsel appointed to represent interest of the Respondent No.2.

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

1.	C. R. No.	271 of 2023
2.	Date of Registration of F.I.R.	22.05.2023
3.	Name of Police Station	Jodbhavi Peth Police Station, Solapur
4.	Section/s invoked	Sections 370, 376, 342 r/w. 34 of the I.P.C., 1860;

		3, 4, 5 & 6 of the Immoral Traffic (Prevention) Act, 1956; 4, 6, 8, 10, 12 & 17 of the POCSO Act, 2012; 81 of the Juvenile Justice Act, 2015.
5.	Date of arrest	29.05.2023
6.	Date of filing Charge-sheet	12.07.2023

3. As per the prosecution case, as the relations of parents of the victim were not cordial and as there were frequent quarrels between them, in the year 2011, they started residing separately. At that time, the victim was only three years old and started residing with her father, who is Accused No.1. It appears that when the victim was 12 years old, Accused No.1 – father sold her to an organisation by the name 'Jay Malhar Lok Kala Kendra' in lieu of consideration. It appears that thereafter the victim was sold to five such Lok Kala Kendras by the Accused No.1 – father who accepted consideration for the same. On 17.05.2023 the victim contacted her mother through social media and thereafter the mother lodged a complaint. The victim was rescued and handed over to her mother.

4. It is the contention of Mr. Arote, learned Counsel appearing for the Applicant that the Applicant's name is mentioned neither in the F.I.R. nor in the Section 164 CrPC, 1973 statement recorded before the Court. He submitted that name of the Applicant is mentioned in the

Supplementary statement dated 24.05.2023. He submitted that there is no role of the Applicant in the said transactions. He is merely a customer and that he is neither involved in the actual offence of transportation nor in the transactions of selling and purchasing of the victim.

5. On the other hand, Ms. Magare, learned Counsel appointed to represent interest of the Respondent No.2 and Ms. Bhosale, learned APP submitted that the name of the Applicant has been specifically mentioned by the victim. In the supplementary statement dated 24th May 2023, it is stated by the victim that the Applicant frequently used to sexually assault the victim. The victim has identified the Applicant. The Applicant is involved in very serious and heinous crime. The Applicant was aware that the victim is minor and still the Applicant has committed sexual assault. Both of them submitted that the Bail Application be rejected.

6. Ms. Magare, learned Counsel appointed to represent the interest of the Respondent No.2 also relied on the judgment of the Supreme Court in Re. **Right to Privacy of Adolescents**¹, and more particularly on paragraph Nos. 19, 21, 23, 37 and 44(a). She therefore submitted that the Bail Application be rejected.

7. A perusal of the record shows that the F.I.R. has been lodged on 22.05.2023. The Applicant has been arrested on 29.05.2023. The

1 2024 SCC OnLine SC 2055

Charge-sheet has been filed on 12.07.2023. As per the Charge-sheet, there are 33 witnesses proposed to be examined by the prosecution. Till date there is no progress in the trial and even the Charge is also not framed. Therefore, the trial is likely to take a considerably long time.

8. As far as the judgment of the Supreme Court in the case of **Right to Privacy of Adolescents** (supra), it appears that the said judgment is arising out of the Order passed by the Division Bench of the High Court of Judicature at Calcutta, in Criminal Appeal No.1451 of 2024, wherein the High Court has acquitted the Accused and set aside conviction of the Accused for the offences punishable under Section 6 of the POCSO and Sub-Sections 2(n) and (3) of Section 376 of the Indian Penal Code. The Division Bench of the High Court of Judicature at Calcutta has reversed the conviction *inter alia* under POCSO Act. Thus, the said judgment is after trial and will have no application Bail Application.

9. However, Ms. Magare, learned Counsel appointed to represent the interest of the Respondent No. 2 is right in contending that it is the responsibility of the State to take care of helpless victims of such heinous offences. She rightly submitted that in view of the offence, the right of the victim to live dignified life, which is an integral part of the fundamental right guaranteed under Article 21 of the Constitution of India is affected. The victim is deprived of the fundamental right to live

a dignified and healthy life. Ms. Bhosale, learned APP states that the victim has been paid compensation as per the **Manodhairya Scheme** and the State is taking steps to rehabilitate the victim.

10. *Prima facie* the role of the Applicant is that he is the customer and he has no active role in the main offence of transportation and transactions of selling and purchasing of the victim. In any case, trial will take considerable time to conclude.

11. The Applicant does not have any criminal antecedents.

12. The Applicant does not appear to be at risk of flight.

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

14. In view thereof, the following order:-

ORDER

(a) The Applicant – Rahul Dnyaneshwar Khandale alias Rahul Dnyaneshwar Khandagale be released on bail in connection with C. R. No.271 of 2023 registered with the Jodbhavi Peth 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 Jodbhavi Peth Police Station, District-Solapur on Sunday of every week between 2.00 p.m. and 4.00 p.m. until the conclusion of the trial.

(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 witnesses 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.

15. The Bail Application is disposed of accordingly.

16. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its own merits uninfluenced by the observations made in this order.

17. This Court places on record the appreciation of the assistance rendered by Ms. Magare, learned Counsel appointed to represent the interest of Respondent No.2. The High Court Legal Services Authority is requested to include her name in the list maintained by them and to pay her professional fees as per the rules.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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BHALCHANDRA
GOPAL DUSANE
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