



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

BAIL APPLICATION NO. 808 OF 2023

BANWARI HARBHAJAN NIRMAL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Raees Khan a/w Adv. Kinshu Jaiswal for the Applicant.

Adv. Priyanka H. Chavan for the Victim.

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

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 20, 2023

P.C. :

1. Heard learned counsel for the applicant, learned counsel Adv. Priyanka H. Chavan for the victim and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Section 354-A of the Indian Penal Code read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) registered on 16/05/2021 vide C.R. No. 351 of 2021 with Amboli Police Station, Mumbai.

3. The applicant was arrested on 16/05/2021 for committing acts with the victim which is an offence punishable under the aforesaid sections.

4. Learned APP as well as learned counsel for the victim opposed the application. It is submitted that the victim was a minor and considering the age of the applicant no leniency should be shown.

5. The maximum punishment for the aforesaid offence is 5 years rigorous imprisonment. The applicant is in custody for more than 2 years and 7 months as an undertrial. I am informed that even the charge has not yet been framed. The possibility of the trial concluding any time soon appears remote. The investigation is complete and the charge-sheet is filed. The applicant can not be kept any longer in custody by way of a pre-trial punishment. The applicant will face the consequences post-trial if found guilty. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Banwari Harbhajan Nirmal in connection with C.R. No. 351 of 2021 registered with

Amboili 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) The applicant shall not contact, threaten or intimidate victim or witnesses.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(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 valuable assistance rendered by Advocate Priyanka H. Chavan, who appeared on behalf of

the victim in this proceeding. Her engagement may be regularized by the Maharashtra State Legal Services Authority if she is on the panel or else she may be paid fees/honorarium quantified at Rs.5000/-.

(M. S. KARNIK, J.)